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Genl. II-27-27,000-18-11-45

EO 4 (1946) Department

No SERIES.

G.O. No.

689-ED

PE MP

Dated

11/4/46

(52)

[Despatch Abstract]

ESL - Sri V. R. Janakurama Ayyar
Formerly clerk, Office of the D.O. -
Dismissal from service - Sent
notice - Papers - Recorded.

Up. 8 N.F.

Back Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	1826	ED	7.11.45				
	66	"	15.1.46				
	935	"	25.4.45				

Further Papers.

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

No. 25, Veerappan Street,
P. T. Madras, 24th Sep. 1945

25 SEP 1945

To

The Secretary to Government, Education Department, Madras.

Thro'

The Director of Public Instruction,

Madras.

Sir,

Sub: Appeal for revision of orders with reference to the judgment dated 4th May 1945 of the Federal Court of India & Rule 55 of the Civil Services (Classification, Control and Appeal) Rules - Disciplinary action wrongful dismissal from service - Sri. V. K. Janakirama Iyer, Clerk, office of the Director of Public Instruction, Madras.

42688

With reference to Government Education Memo No. 24546 - B-1 Education dated 12-8-43 the petitioner begs to enclose herewith an extract of judgment dated 4-5-1945 of the Federal Court of India together with an extract of the relevant remarks of the Court passed on the case similar to the petitioner's in the following respects: -

2. (a) The case dealt with in the Federal Court judgment order related to (September 1937) and the case of the petitioner also related to (November) 1937.

(b) In the case of the petitioner also the copy of the enquiry officer's report asked for by the petitioner was also refused in Memo No. 524F/37 dated 4-6-1938 of the D.P.I. - Please vide Copy enclosed. In regard to the suppression of the document referred to in para 48 of the petitioner's appeal dated 15-8-1938 and the arguments in paras 49 to 57 of the appeal attention is also solicited to the orders in section 476 Criminal Procedure Code, copy of which is also enclosed, and the procedure laid down therein was not also followed in regard to the alleged suspicion of the enquiry officer on the petitioner in regard to the loss of the document filed. When similar procedure is considered necessary in the case of the past conduct with reference to para 8 of G.O. No. 275 Public Services, dated 5-2-37 it seems no reason why similar procedure could not have been followed in respect of the suspicion of the enquiry officer, if true.

(c) Further, oral representation of the petitioner was also refused to be received in the D.P.I.'s memo C-504F/38 - dated 19-10-1938 Copy of which is also enclosed and written representation also rejected in Government Memos 21099H/39 - Education dated 2-6-39, 30424E/39, dated 3-8-39, G.O. No. 66 Education dated 15-1-1940, Government Memos 2086B/41-1 dated 28-1-41, 41599B/41-1 Education dated 28-10-41, 11684B/42-1 Education dated 21-3-42, and 13569 B-1/43 Education dated - 16-6-1943.

(d) In the case of the petitioner also the procedure indicated in the Federal Court Judgment (that in our judgment involves in all cases where there is an enquiry and as a result thereof some authority definitely proposes dismissal or reduction in rank that the person concerned shall be told in full - or adequately summarised form, the results of that enquiry and the findings of the enquiry officer and be given an opportunity of showing cause with information why he should not offer the proposed dismissal or reduction in rank. All action is

240(3)

is also solicited in this connection to the notes slip added to rule 55 in the P. & T. edition of the fundamental and supplementary rules recording a decision of the Secretary of State No. 678 dated 28-5-43, to the effect that "the technical requirements of Section 240 of the Government of India Act will be complied with if an officer is called upon to offer the defence in respect of the charges against him, is also asked at the same time to show cause against the imposition of the penalty considered prima-facie case to be appropriate should the charges against him be held to have been proved -- in it should in such cases be made clear to the officer concerned that any representation that he might make in regard to the action to be taken against him in the event of all charges or any of them being held to be proved will be considered by the final authority concerned before any order punishing him is passed."

3. In the above circumstances and in view also of the breach of the statutory obligations referred to above, in the case of the petitioner, the petitioner prays for the early revision of the order already passed and fresh orders issued reinstating him to his appointment and granting him all emoluments and privileges of promotion etc. for which he is entitled with effect from the date of his suspension 1-11-1937. For which act of kindness the petitioner shall ever remain grateful.

The petitioner begs to remain,

S i r,

Your most obedient servant,

G. N. Tanakikilawair

✓ Copy submitted to Government Education Department, Madras in

E. & P. H. (B).

The receipt of the original, submitted thro' the D. P. I., may be awaited till 25-10-45.

26/9/45.
USK
25.9.45

25/9/45

-3-

3

Federal Court of India, Judgment dated 4-5-1945
(On appeal from the High Court of Judicature, Lahore)

The Secretary of State for India appellant

versus

M. Lall respondent

(Government of India Act (1935) Section 240 (1) and (3) and Civil Services (Classification, control and appeal) rule 55- Wrongful dismissal - Remedy of the dismissed servant - proper relief - Construction of section 240(1) and (3) Amendment - mistake as to proper remedy.

1922

Lall was appointed in 1922. In September 1937 he was informed of a departmental enquiry into his conduct under rule 55 of the classification rules in 1935-36 and eight charges were framed. He was asked to furnish a written statement of defence. On 9-1-38 he filed his written statement. An officer S. was appointed to hold a departmental enquiry who after enquiry submitted a report on 9-8-1938. This report was not disclosed to L. in spite of repeated request for a copy of it. On 14-11-38 L. was informed that S. was unable to complete the enquiry and another officer B. was appointed to complete the enquiry and B. informed L. of this and asked him to meet him when all the available materials would be gone into. L. took up the position that the enquiry was over and that if it was said to be incomplete he might be given a copy of the report of S. and Government orders thereon and they were refused. Then L. met B. and after protesting that he was not given adequate opportunity of defending himself as provided by rule 55 completed what he had to say in his defence by 2-1-39. S. made his report on 29-1-39 which was sent up on 21-6-39 to the Federal Public Service Commission together with some findings and recommendations of the Government thereon for their consideration. On 31-8-1939 L. was dismissed and on 10-8-40 L's dismissal from 4-6-40 was notified in the Gazette and he was given a copy of the order dated 31-8-39. After making correspondence to get redress L. finally filed a suit on 20-7-42 for a declaration that the order of his dismissal was not passed in due course of law and was wrongful, illegal and ultra-vires of the Government.

Held that L. was wrongfully dismissed and directed the High Court to award damages to L. including taxed cost of appeal.

This is an appeal by the Secretary of State for India in a suit instituted by the respondent in the High Court, Lahore and the High Court made a decree in the respondent's favour declaring that his dismissal was wrongful, void, illegal, and inoperative. At the time the High Court made this order, they added a note to their judgment that several substantial questions of law as to the interpretation of the Government of India Act 1935 were involved in the case and they accordingly certified that it was a fit case for appeal to the Federal Court. Hence this appeal. The material facts can be summarised as follows:

The High Court framed the following issues:-

- (4) Was not the plaintiff given adequate opportunity of defending himself as contemplated in rule 55 of the classification rules. If not what is the effect.
- (5) Was not the plaintiff given reasonable opportunity of showing cause as laid down in section 240 (3) of the Government of India Act 1935? If not what is the effect.

(6) Is the Court entitled to determine the question whether the opportunity given was reasonable or not?

Issues Nos. 4 and 5 were dealt with together on the basis that rule 55 and subsection (3) of Section 240 required a like compliance with the legal obligation as above set out and that what would be a breach of one would be a breach of the other. On issue No. 6 it was held by the court that it was for the court to decide that the opportunity was reasonable or not. In the result they decided in favour of the plaintiff and made a declaration that the order of dismissal was wrongful void, illegal and inoperative.

Section 240 of the Act is as follows:-

(3) No person who is a member of the civil service of the Crown in India shall be dismissed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

Interposed between the last charge and the indication of the evidence by which that charge was proposed to be proved there were two paras to the following effect.

(1) Show Cause

(2) that he should ~~show~~ why he should not be dismissed or removed or subjected to such other disciplinary action as the competent authority may think fit to take for breach of Government rules and conduct.

Remarks of the Federal Court:-

Whatever representations were made by L. it is clear that no time before his removal from the service was Mr. L. to see the report of the enquiry officers nor was he that either the Government or the Federal Public Service Commission were definitely proposing on the basis of the report to remove him from service. He had received an invitation to show cause against possible disciplinary other possible punishments included at the end of the originally served on him but no opportunity to show cause against dismissal was given to him after dismissal had been recommended. At no time was he given any opportunity of making representations against the facts found in the enquiry officer's reports or against adverse deductions drawn against him.

Text of the Judgment:-

That in our judgment involves in all cases where an enquiry and as a result of thereof some authority proposes dismissal or reduction in rank that the person concerned shall be told in full or adequately summarised the results of that enquiry and the findings of the enquiry and he be given an opportunity of showing cause with the information why he should not suffer the proposed dismissal or reduction in rank. Breach of this statutory obligation give rise to a cause of action in a Court of law. This duty is also laid down in the notes slip added to rule 55 of the R. & T. edition of the fundamental supplementary rules, regarding a decision of the Secretary of the State under 677 28-6-1943.

G.A.

It can in our judgment be regarded as a provision in the Constitution Act which while it does not alter the tenure of office during His Majesty's pleasure prescribed by Sub-Section 1 of Section 240 or the power of dismissal at will, does impose in certain cases certain statutory obligations to be carried out before dismissal is effected breach of will give to the person adversely affected a cause of action. It is that no such opportunity as indicated above was given to Mr. L. in this case. In spite of his repeated efforts to be informed of the results of the enquiry officer's report and to make representation on their reports no such opportunity was given to him. No information was given to him of the proposal of the Punjab Government or of the Federal Public Service Commission or of the Government of India that he should be dismissed. He could make no representation against such proposed action. In the circumstances of this case the early notice contained in the Charge Sheet that possible dismissal might be decided upon is not in our judgment adequate compliance with the Sub-section. In our judgment the wording of sub-section 3 requires something which was not done in this case. ~~xxxxxxx~~ In our judgment Mr. L. was dismissed without having been afforded the reasonable opportunity of showing cause as required by the Rules.

That leaves only the actual remedy to be considered as indicated earlier Mr. L. is not in our judgment entitled to a declaration that he has never been dismissed. His proper remedy was in our judgment damages for wrongful dismissal in breach of the statutory obligation. We consider that damages be the proper remedy and therefore we give leave to amend and claim damages notwithstanding length of time that had expired after his wrongful dismissal. In these circumstances this may well be regarded as an exceptional case where to secure justice leave to amend should be given at this late stage. We are the appellate court in this case and we would ourselves leave to amend and attempt to assist the damages had been proper materials for assessing damages. In these circumstances of the case we propose a declaration that for the order of the Court ~~xxxx~~ shall be substituted an order declaring that Mr. L. wrongfully dismissed in breach of the statutory obligation and remit the case to the Court to take such action regard to any application by Mr. L. for leave to amend and claim damages and the assessment of such damages. High Court shall seem right in view of the foregoing our remarks herein. In our judgment in three Mr. L. is entitled to his taxed costs of this.

we order accordingly.

By the Court. In accordance with the opinion of the Court, it is ordered that in place of the order of the High Court there shall be substituted an order declaring that Mr. L. was wrongfully dismissed but such substituted order shall not affect the order as to the costs made by the High Court and it was further ordered that the case be remitted to the High Court with a direction that the High Court do take such actions in regard to any application by Mr. L. for leave to amend to claim damages as to the High Court shall seem right in view of the judgment of and the remarks contained in the judgment of this court.

Except as aforesaid the appeal of the Secretary of State is dismissed with costs. Such costs to be taxed by the taxing officer of this Court. The cross-objections are dismissed. No order is made as to the costs of the cross-objections. Leave to appeal to His Majesty's in Council refused.

Copy of the Proceedings of the D.P.J. Memorandum No. 524 F. 1-37 dated 4th June 1938.

Read Petitions from Mr. V. V. Janakiram dated 25th April 1938, 16th May 1938 and 26th May 1938 and also petition dated 30th May 1938.

1. -----

2. The petition is informed that all material and relevant portion of the report of the Enquiry Officer are incorporated in Memorandum No. 524 F/37 dated 4-6-38 passed on his review petition dated 8-4-38 and that it is therefore considered unnecessary to supply the petitioner a copy of the report independently.

True copy of the D.P.J. C. No. 504 F-38 dated 19-10-38. Petition dated 5-10-38 from Mr. V. V. Janakirama Iyer.

Sri V. V. Janakirama Iyer is informed that the Director is not prepared to receive any oral representations on the appeal which has been addressed to Government. The Petitioner may, however, submit in writing any representations which he wishes to make.

These proceedings were passed subsequent to the dismissal order Memo No. 24 F/37 D. 5.3.38 of the D.P.J.

Section 476 Criminal Procedure Code by Mr. D.E. Cravenburgh.

Under this Section, it is stated that in case of suspicion in cases of offences relating to documents committed in the course of a judicial proceeding a preliminary enquiry should be held and a finding recorded and if the finding is against the accused he should be given an opportunity to defend himself and thereafter the proceedings of the main case should be proceeded with. Where the accused had not been called upon to enter on his defence in respect of an offence (suspicion is also an offence) has occasioned failure of justice. If the accused has materially been prejudiced by the breach of procedure clearly a failure of justice has occurred. On account of any irregularity in the proceedings the finding or order should be reversed.

G. J.

8

(Certificate of Posting obtained) Madras 25.9.45

To. The Secretary to Govt. Education Department
Madras

Sir,

Re: Appeal for reinstatement. Sri V.R. Tanakrishnaiah formerly clerk office of D.P.9. Madras PP.1-2 and 6

In the petition of 24.9.45 submitted by the petitioner the following additions appear necessary and he prays that they may kindly be added in the petition.

(1) The word 'Should' be added instead of 'could' in the last sentence in para 2 (b)

(2) In Subpara (d) of para 2 the words "Was not also followed" after the sentence in inverted commas ending with the words

P.T.O.

Words "on reduction
in rank" be also
added.

The petition

Your

V.R. Janakiraman
formerly clerk
Office of D.D.
Madras.

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FORT SAINT GEORGE

The Secretary to

Government
Education Dept.

Fort Saint George

Madras.

Office of the Director of Public
Instruction, Madras.

N.Roc.555 F/45 dated 22-10-1945.

Petition from Sri V.R.Janakiraman - ex-clerk, Office of the
Director of Public Instruction, dated 24-9-45 with
Post card containing corrections to the petition.

Submitted.

2. The Government memorandum No.24546-B-1 Education dated
12-8-43 with reference to which the petition is being submitted, does
not appear to have been received in this office. The attention of
Government is however invited to G.Os.935 Edn. dated 25-4-39 and
No.Ms.66 Edn., dated 15-1-1940 and to Government Memorandum 38979 B1
Edn., dated 30-9-1940 in which the previous petitions of the petitioner
were disposed of.

for Director of Public Instruction.

To
The Secretary to Government,
Education and Public Health Department,
Madras.

k.h.23-10.

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23/x

To

The Secretary to Government, Education Department, Madras.

Thro'

The Director of Public Instruction,

Madras.



Sir,

Sub: Appeal for revision of orders with reference to the judgment dated 4th. May 1945 of the Federal Court of India & Rule 55 of the Civil Services (Classification, Control and Appeal) Rules - Disciplinary action wrongful dismissal from service - Sri. V. K. Janakirama Iyer, Clerk, office of the Director of Public Instruction, Madras.

With reference to Government Education Memo No. 24546 - B-1 Education dated 12-8-43 the petitioner begs to enclose herewith an extract of judgment dated 4-5-1945 of the Federal Court of India together with an extract of the relevant remarks of the Court passed on the case similar to the petitioner's in the following respects: -

2. (a) The case dealt with in the Federal Court judgment order related to (September 1937) and the case of the petitioner also related to (November) 1937.

(b) In the case of the petitioner also the copy of the enquiry officer's report asked for by the petitioner was also refused in Memo No. 524F/37 dated 4-6-1938 of the D.P.I. - Please vide Copy enclosed. In regard to the suppression of the document referred to in para 48 of the petitioner's appeal dated 15-8-1938 and the arguments in paras 49 to 57 of the appeal attention is also solicited to the orders in section 476 Criminal Procedure Code, copy of which is also enclosed, and the procedure laid down therein was not also followed in regard to the alleged suspicion of the enquiry officer on the petitioner in regard to the loss of the document filed. When similar procedure is considered necessary in the case of the past conduct with reference to para 8 of G.O. No. 275 Public Services, dated 5-2-37 it seems no reason why similar procedure could not have been followed in respect of the suspicion of the enquiry officer, if true.

(c) Further, oral representations of the petitioner were also refused to be received in the D.P.I.'s memo C-504F/38 - dated 19-10-1938 Copy of which is also enclosed and written representations also rejected in Government Memos 21099B/39 - Education dated 2-6-39, 30424B/39, dated 3-8-39, G. O. No. 66 Education dated 15-1-1940, Government Memos 2086B/41-1 dated 23-1-41, 41599B/41-1 Education dated 28-10-41, 11684B/42-1 Education dated 21-3-42, and 13569 B-1/43 Education dated - 16-6-1943.

(d) In the case of the petitioner also the procedure indicated in the Federal Court Judgment (that in our judgment involves in all cases where there is an enquiry and as a result thereof some authority definitely proposes dismissal or reduction in rank, that the person concerned shall be told in full - or adequately summarised form, the results of that enquiry and the findings of the enquiry officer and be given an opportunity of showing cause with information why he should not suffer the proposed dismissal or reduction in rank. Attention is

EXP. H (B)

that

is also solicited in this connection to the notes slipped to rule 55 in the P. & T. edition of the fundamental and supplementary rules recording a decision of the Secretary of State No. 677 dated 28-5-43 to the effect that "the technical requirements of Section 240 of the Government of India Act will be complied with if an officer is called upon to offer the defence in respect of the charges against him is also asked at the same time to show cause against the imposition of the penalty considered prima-facie case to be appropriate should the charges against him be held to have been proved -- it should in such cases be made clear to the officer concerned that any representation that he might make in regard to the action to be taken against him in the event of all charges or any of them being held to be proved will be considered by the final authority concerned before any order punishing him is passed."

3. In the above circumstances and in view also of the breach of the statutory obligations referred to above, in the case of the petitioner, the petitioner prays for the early revision of the order already passed and fresh orders issued re-instating him to his appointment and granting him all emoluments and privileges of promotion etc. for which he is entitled with effect from the date of his suspension, 1-11-1937. For which act of kindness the petitioner shall ever remain grateful.

The petitioner begs to remain,

S i r,

Your most obedient servant,

G. N. Jagan Mohan Aiyar

Copy submitted to Government Education Department, Madras in advance

Federal Court of India, Judgment dated 4-5-1945
(On appeal from the High Court of Judicature, Lahore)

The Secretary of State for India Appellant

Versus

M. Lall Respondent

(Government of India Act (1935) Section 240 (1) and (3) and Civil Services (Classification, control and Appeal) Rule 55- Wrongful dismissal - Remedy of the dismissed servant - Proper relief - Construction of section 240(1) and (3) Amendment - Mistake as to proper remedy.

1922
Lall was appointed in 1922. In September 1937 he was informed of a departmental enquiry into his conduct under rule 55 of the classification rules in 1935-26 and eight charges were framed. He was asked to furnish a written statement of defence. On 9-1-38 he filed his written statement. An officer S. was appointed to hold a departmental enquiry who after enquiry submitted a report on 9-8-1938. This report was not disclosed to L in spite of repeated requests for a copy of it. On 14-11-38 L. was informed that S. was unable to complete the enquiry and another officer B. was appointed to complete the enquiry and B. informed L of this, and asked him to meet him when all the available materials would be gone into. L. took up the position that the enquiry was over and that if it was said to be incomplete he might be given a copy of the report of S. and Government orders thereon and they were refused. Then L. met B. and after protesting that he was not given adequate opportunity of defending himself as provided by rule 55 completed what he had to say in his defence by 2-1-39. S. made his report on 29-1-39 which was sent up on 21-6-39 to the Federal Public Service Commission together with some findings and recommendations of the Government thereon for their consideration. On 31-8-1939 L. was dismissed and on 10-8-40 L's dismissal from 4-6-40 was notified in the Gazette and he was given a copy of the order dated 31-8-39. After making correspondence to get redress L. finally filed a suit on 20-7-42 for a declaration that the order of his dismissal was not passed in due course of law and was wrongful, illegal and ultra-vires of the Government.

Held that L. was wrongfully dismissed and directed the High Court to award damages to L. including taxed cost of appeal.

This is an appeal by the Secretary of State for India in a suit instituted by the respondent in the High Court, Lahore and the High Court made a decree in the respondent's favour declaring that his dismissal was wrongful, void, illegal, and inoperative. At the time the High Court made this order, they added a note to their judgment that several substantial questions of law as to the interpretation of the Government of India Act 1935 were involved in the case and they accordingly certified that it was a fit case for appeal to the Federal Court. Hence this appeal. The material facts can be summarised as follows:

The High Court framed the following issues:

- (4) Was not the plaintiff given adequate opportunity of defending himself as contemplated in rule 55 of the classification rules. If not what is the effect.
- (5) Was not the plaintiff given reasonable opportunity of showing cause as laid down in section 240 (3) of the Government of India Act 1935? If not what is the effect.

16 - 4 -
(6) Is the Court entitled to determine the question whether the opportunity given was reasonable or not?

Issues Nos. 4 and 5 were dealt with together on the basis - that rule 55 and subsection (3) of Section 240 required a like compliance with the legal obligation as above set out and that what would be a breach of one would be a breach of the other. On issue No. 6 it was held by the court that it was for the court to decide that the opportunity was reasonable or not. In the result they decided in favour of the plaintiff and made a declaration that the order of dismissal was wrongful void, - illegal and inoperative.

Section 240 of the Act is as follows:-

(3) No person who is a member of the civil service of the Crown in India shall be dismissed or reduced in rank until he has been given a reasonable opportunity of showing cause -- against the action proposed to be taken in regard to him.---

Interposed between the last charge and the indication of the evidence by which that charge was proposed to be proved there were two paras to the following effect.

- Shows cause*
- (1) *show cause*
(2) that he should *show cause* why he should not be dismissed, - removed or reduced or subjected to such other disciplinary action as the competent authority may think fit to enforce - for breach of Government rules and conduct.

Remarks of the Federal Court:-

Whatever representations were made by L. it is clear that at no time before his removal from the service was Mr. L. allowed to see the report of the enquiry officers nor was he informed that either the Government or the Federal Public Service Commission were definitely proposing on the basis of those report to remove him from service. He had received the general invitation to show cause against possible dismissal (amongst other possible punishments) included at the end of the charges originally served on him but no opportunity to show cause against dismissal was given to him after dismissal had passed from being a possible punishment to the punishment proposed and recommended. At no time was he given any opportunity before dismissal of making representations against the accuracy of facts found in the enquiry officer's reports or against the adverse deductions drawn against him.

Text of the Judgment:-

That in our judgment involves in all cases where there is an enquiry and as a result thereof some authority definitely proposes dismissal or reduction in rank that the person concerned shall be told in full or adequately summarised form the results of that enquiry and the findings of the enquiry officer and he be given an opportunity of showing cause with that information why he should not suffer the proposed dismissal or reduction in rank. Breach of this statutory obligation will give rise to a cause of action in a Court of law. This procedure is also laid down in the notes slip added to rule 55 in the P. & T. edition of the fundamental supplementary rules recording a decision of the Secretary of the State under 677 dated 28-5-1943.

bu. J.

P.V.D.

10
It can in our judgment be regarded as a provision in the Constitution Act which while it does not alter the tenure of office during His Majesty's pleasure prescribed by Sub-Section 1 of Section 240 or the power of dismissal at will, does impose in certain cases certain statutory obligations to be carried out before dismissal is effected breach of will give to the person adversely affected a cause of action. It is that no such opportunity as indicated above was given to Mr. L in this case. In spite of his repeated efforts to be informed of the results of the enquiry officer's report and to make representation on their reports no such opportunity was given to him. No information was given to him of the proposal of the Punjab Government or of the Federal Public Service Commission or of the Government of India that he should be dismissed. He could make no representation against such proposed action. In the circumstances of this case the early notice contained in the Charge Sheet that possibly dismissal might be decided upon is not in our judgment adequate compliance with the Sub-section. In our judgment the wording of sub-section 3 requires something which was not done in this case. ~~xxxxxx necessary~~ In our judgment Mr. L. was dismissed without having been afforded the reasonable opportunity of showing cause as required by the Rules.

That leaves only the actual remedy to be considered as indicated earlier. Mr. L. is not in our judgment entitled to a declaration that he has never been dismissed. His proper remedy was in our judgment damages for wrongful dismissal in breach of the Statutory obligation. We consider that damages be the proper remedy and therefore L. is given leave to amend and claim damages notwithstanding the length of time that had expired after his wrongful dismissal. In these circumstances this may well be regarded as a exceptional case where to secure justice leave to amend should be given at this late stage. We are the first Appellate court in this case and we would ourselves give leave to amend and attempt to ^{assess} ~~assist~~ the damages had there been proper materials for assessing damages before us. In these circumstances of the case we propose to make a declaration that for the order of the Court ~~xxxxxx~~ there shall be substituted an order declaring that Mr. L. was wrongfully dismissed in breach of the Statutory obligations and remit the case to the Court to take such action in regard to any application by Mr. L. for leave to amend to claim damages and the assessment of such damages as to the High Court shall seem right in view of these judgment and our remarks herein. In our judgment in the circumstances Mr. L. is entitled to his taxed costs of this appeal and

we order accordingly.

By the Court. In accordance with the opinion of the Court it is ordered that in place of the order of the High Court there shall be substituted an order declaring that Mr. L. was wrongfully dismissed but such substituted order shall not affect the order as to the costs made by the High Court and it was further ordered that the case be remitted to the High Court with a direction that the High Court do take such actions in regard to any application by Mr. L. for leave to amend to claim damages as to the High Court shall seem right in view of the judgment of and the remarks contained in the judgment of this court.

Except as aforesaid the appeal of the Secretary of State is dismissed with costs. Such costs to be taxed by the taxing officer of this Court. The cross-objections are dismissed. No order is made as to the costs of the cross-objections. Leave to appeal to His Majesty's in Council refused.

Copy of the Proceedings of the D.P.I. Memorandum No. 524 F.1-37 dated 4th June 1938.

Read Petitions from Mr. V. V. Janakiram dated 25th April 1938, 16th May 1938 and 26th May 1938 and also petition dated 30th May 1938.

1. -----

2- The petition is informed that all material and relevant portion of the report of the Enquiry Officer are incorporated in Memorandum No. 524 F/37 dated 4-6-38 passed on his review petition dated 8-4-38 and that it is therefore considered unnecessary to supply the petitioner a copy of the report independently.

True copy of the D.P.I. C No. 504 F-38 dated 19-10-38.
Petition dated 5-10-38 from Mr. V. V. Janakirama Iyer.

Sri V. V. Janakirama Ayyar is informed that the Director is not prepared to receive any oral representations on the appeal which has been addressed to Government. The Petitioner may, however, submit in writing any representations which he wishes to make.

- 7-24 19
11
Section 476 Criminal Procedure Code by Mr. D.E. Cravenburgh.

Under this Section, it is stated that in case of suspicion in cases of offences relating to documents committed in the course of a judicial proceeding a preliminary enquiry should be held and a finding recorded and if the finding is against the accused he should be given an opportunity to defend himself and thereafter the proceedings of the main case should be proceeded with. Where the accused had not been called upon to enter on his defence in respect of an offence (suspicion is also an offence) has occasioned failure of justice. If the accused has materially been prejudiced by the breach of procedure clearly a failure of justice has occurred. On account of any irregularity in the proceedings the finding or order should be reversed.

B. N. J.

B. N. J.
These proceedings were passed Subsequent to the dismissal order Memo No. 524 F/37 D. 5. 3. 1938. of the D.P.I.
B. N. J.

(Certificate of Posting obtained) 2/
Madras dt 25.9.45

To. The D.P. J. Madras. (12)

Sii. Re: Appeal for reinstatement. In V.R.
Tanakikamayar formerly clerk office of D.P. J.
Madras

In the petition dt 24.9.45 submitted
by the petitioner addressed to Govt.
The D.P. J. in following additions
appear necessary and he prays that
they may kindly be added in the petition.
(1) The word 'should' be added instead
of 'could' in the last sentence in para

2 (b)

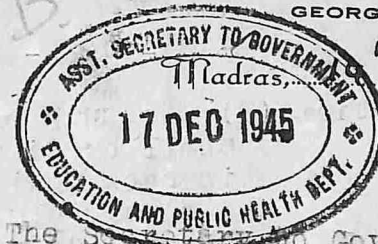
(2) In Subpara (d) of para 2 the words
P.O.

Received on
12.10.45
(12/10/45)

K. SRINIVASAN,
ADVOCATE.

Residence:
No. 126, VELLALA STREET,
PURASAWALKAM.

No. 3, KONDI CHETTY ST.,
GEORGE TOWN.



In reply Please quote.

No. 482/45

To

The Secretary to Govt of Madras
Madras.
(Education Deptt) Fort St. George,

51329

Sir,

Subject- suit Notice for damages under
section 80 of the Civil Procedure Code-Wrongful
dismissal--Breach of Statutory obligation as
required by sub section (3) of Section 240
of the Govt. of India Act 1935- Sri V.R. Janaki
-Ramaier formerly employed as Clerk in the
office of the Director of Public Instruction,
Madras.

Under instructions from my client Sri
V.R. Janakiramaier formerly employed as clerk
in the office of D.P.I. Madras, now residing at
No. 59 Strotten Muthiah Mudali St., G.T. Madras,
I hereby give you a notice under section 80
of the Civil Procedure code for filing a suit
against the Government for damages for dis-
missing him from the Civil service of the
Crown wrongfully in the following circumstances
and in breach of the statutory obligations as
required by sub section (3) of the section 240
of the Government of India Act 1935.

(2) The sub sections (1) & (3) of the section
240 of the Govt. of India Act 1935 run as
follows:-

Sub section (1) Except as expressly provided
by this Act every person who
is a member of a civil service
of the Crown in India or holds
any civil post under the Crown
in India holds office during
His Majesty's pleasure.

P.T.O.

POST CARD



The Director of Public
Instruction
Madras

Old College
Nungambakkam
Cathedral Posh.
Madras.

"Was not also
followed" after
the sentence in
inverted commas
ending with the
words "or reduction
in rank" be also
added.

The pet. V. begs to
remain

Your most obedient
Servant

V.R. Janakiramaier
(formerly clerk
office of D.P.I. Madras)

Sub Section (3) No such person as aforesaid shall be dismissed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

3.(1) My client was holding permanent civil post as clerk in the Office of the D.P.I. Madras under the Crown under Sub-section (1) of the Govt. of India Act 1935 for about 22 years from 1916 to 4-3-38 and he was drawing a salary of Rs.71/- p.m. in the scale of Rs.65--3/2--80.

(2) My client was, after a departmental enquiry into his conduct held in December 1937 by the Enquiry Officer appointed for the purpose, dismissed from the Civil Service of the Crown in the Memo No 524 P/37 dated 5th March 38 of the D.P.I. Madras, on the findings of the Enquiry Officer made in his report dated 11-2-38 and referred to in his dismissal. My client was not given any opportunity before dismissal of making representation against the accuracy of facts found in the enquiry officers report against the adverse deductions drawn against him. Moreover my client's request to supply him with a copy of the Enquiry Officer's report was refused in the D.P.I.'s memo 524 P/37 dated 4-6-38 after 3 months after the date of the dismissal order dated 5-3-38.

(3) Further, it is clear from the D.P.I.'s dismissal order dated 5-3-38 that at no time before my client's removal from the Civil service of the Crown was he informed that the authorities were definitely proposing on the basis of the Enquiry Officer's report dated 11-2-38 to remove him from the Civil service of the Crown. No opportunity to show cause against the dismissal was given to my client after dismissal had passed from being a possible punishment to the

punishment proposed and recommended.

4. The Federal Court India, in a case relating to September 1937 in respect of a member holding Civil Service under the Crown in India referred to in the sub section (1) of the Section 240 of Govt. of India Act 1935 in which the defects in the procedure mentioned were observed in the sub paras (2) & (3) of para 3 above delivered the following Judgment in May 1945. "That in our Judgment involves in all cases where there is an enquiry and as a result thereof some authority definitely proposes dismissal or reduction in rank that the person concerned shall be told in full or adequately summarised form the result of that enquiry and findings of the Enquiry Officer and he be given an opportunity of showing cause with that information why he should not suffer the proposed dismissal or reduction in rank. This is a statutory obligation under sub section (3) of the Section 240 of the Government of India Act 1935 and breach of it will give rise to a cause of action for damages in a court of law". Accordingly the Federal Court held that the person concerned was entitled for damages on account of the Breach of the above statutory obligation in his case and awarded damages from the date of his removal from service notwithstanding the length of time that had expired after his dismissal.

5. As my client also who was holding a permanent civil post under the Crown under sub section (1) of the Government of India Act 1935 was dismissed from the Civil Service of

the Crown without having been afforded the reasonable opportunity of showing cause against the action proposed to be taken in regard to him as detailed in the Federal Court Judgment and also the procedure being held therein statutorily obligatory under sub section (3) of Section 240 of the Govt. of India Act 1935 and as according to the Federal Court Judgment the Breach of the above Statutory obligations imposed by sub section (3) of Section 240 of the Govt. of India Act, 1935 in the case of my client, also makes him entitled for a cause of action for damages in a court of law, from the date of his wrongful dismissal from the Civil Service of the Crown. He proposes to file a suit as aforesaid in the 1st paragraph of this letter claiming reliefs against the Government on the expiry of the Statutory period as per section 80 of the Civil Procedure Code for the recovery of the amounts detailed in the annexure to this notice, together with costs thereof.

I remain,
Sir,
Yours faithfully,

K. Simivasan

Annexure.

Date of Suspension ... 2--11--37.

Date of dismissal ... 4--3--38.

Salary drawn Rs. 71 p.m. in a scale of 65--3/2--80.

Date of next increment ... 1--3--38.

1. From	November 1937.	November 37	Rs. 71--0--0
		December 37	Rs. 71--0--0
to	February 1938.	January 38	Rs. 71--0--0
		February 38	Rs. 71--0--0

284--0--0

Less Suspension allowance drawn 64--0--0

220--0--0

2. From 1--3--38 to 1--2--39
for 12 months at Rs. 74 p.m. X 12 ... 888--0--0

3. From 1--3--39 to 1--2--40
for 12 months at Rs. 74 p.m. X 12 ... 888--0--0

4. From 1--3--40 to 1--2--41
for 12 months at Rs. 77 p.m. X 12 ... 924--0--0

5. From 1--3--41 to 1--2--42
for 12 months at Rs. 77 p.m. X 12 ... 924--0--0

6. From 1--3--42 to 30--11--1945.
at Rs. 80 P.M. for 45 months 80 X 45 ... 3600--0--0

7444--0--0

The amount of dearness allowance on account of War and other emoluments for which he is entitled over and above the amount claimed in this annexure to be assessed later on.

100/10/45.

U ✓ J-m 28 (10)

From Asst Secy, E.P.A. Depto
to Dy. D.P.D.

Issued
OAS
30/11/45

Petition from Sri V.R.
Janakiraman, ex-Clerk,
Office of the D.P.D. —
Ref. Dir's ltr dt. N.R.O.C.
of No. 555 Hurd 22.11.45

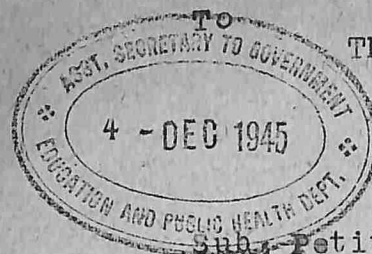
Please arrange to
send copies of Govt
memo. No. 38979 B-1 Edn,
d 30.9.45 & memo.
No. 18227 B-1 Edn, d 10.10.45
as the originals have
been destroyed.

Cve
20.11.45
J.M.
28/11/45

Post copy of Telephonic Message dated 3-12-1945.

From

The Deputy Director of Public Instruction, Madras.



To
The Assistant Secretary to Government,
Education and Public Health Department,
Madras.

Subj: Petition from Sri V. Janakiraman, Ex-clerk, Office of the
Director of Public Instruction, Madras.

Ref: Your Telephone Message dated 30-11-1945.

Copies of Government Memo No.38979-B1 Edn. dated 30-9-1940
and Memo No.18227-B1 Edn., dated 10-5-1940 are herewith enclosed.

M. Janakiraman
3.12.45
Deputy Director of Public Instruction

k.h.3-12.82
3/12

Copy of Government Memo No.38979-B1 Edn., dated 30-9-1940.

Ref: Letter from Sri V.R.Janakirama Ayyar,
dated 16th September 1940.

Sri V.R.Janakirama Ayyar is informed that his memorial
dated the 16th September 1940 is rejected.

E.C. Wood,
Secretary to Government.

Copy of Memorandum No.18227 B-1 Edn., and P.H. dated 10th May 1940
to Sri V.R.Janakirama Ayyar, Koyembedu Village, Aminjikarai Post,
Chingleput District.

Establishment - Office of the Director of Public Instruction -
Sri V.R.Janakirama Ayyar - dismissal - Suit notice.

Ref: Letter from Sri V.R.Janaki Rama Ayyar dated 29th April 1940

Sri V.R.Janakirama Ayyar is informed that the consent of
His Excellency the Governor under Section 270(1) of the Government
of India Act, 1935 is not necessary for filing the proposed suit
as it does not relate to an act done before 1st April 1937.

(True Copies)

M. Janakiraman
3.12.45
Deputy Director of Public Instruc-
tion.

82
3/12

Madras, 1.
st, 1956. (18)

150

Subject - Madras Educational Department, Office of
the Director of Public Instructions, Madras,
Destruction of Defence document disproving
the charge against Sri. V. R. Janakirama Iyer
clerk, - by Enquiry Officer Sri. D.S.Reddi,
on 9-12-1937.

CONFIDENTIAL SECRETARY TO
9673
addressed

no orders have been

h your

u.
3871.10

V. R. Tanaki Roumairgh
24.8.1956.

Referred to the ~~att~~ 7 for

be ear
28/9/12
28.7.05

100

195

Despatch

~~To the D.P. of White Lake~~

441-567-2

VERY URGENT.

(Under Certificate of posting obtained).

No.1/73, Coral Merchant Street,
George Town, Muthialpet,
Madras, 1.
10th September, 1956.

The Hon'ble Minister In Charge of Education,
Fort St. George, Madras.

Honoured Sir,

Re. Madras Educational Department - Establishment -
Office of the Director of Public Instructions,
Madras, - Sri. V. R. Janakiram Iyer, - Ex-clerk,
Revision of dismissal orders.

Attention is solicited to the Government Educational
Department, Memo No.28267-A/51-1 dated the 31st July, 1951,
and my subsequent petitions dated 1-6-51, 3-7-1951, 25-3-1953,
20-4-1954, 24-8-1956 and 4-9-1956, and kindly arrange the issue
early orders, as the matter has been pending for a long time.
It would appear from the said Government Memo. that my --
petition dated the 24th April, 1951, referred to therein, has
been under consideration of Government since orders rejecting
the same and the subsequent petitions in the matter have not
been received so far under Instructions 17(7) of the --
Instructions for the submission of petitions to the Government
of Madras.

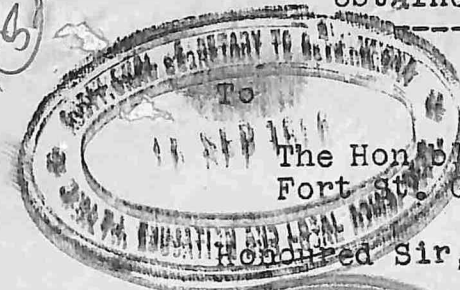
2. I request again to return the photographic copy of
evidence indicating the destruction of the Defence document
filed at the Departmental enquiry and sent to Government --
addressed to the Chief Minister, Madras, with my petition
dated 25-3-1953.

3. With my petition dated 10-10-1941, referred to in
Government Memo No.41599-B/41-1-Education dated the 28th --
October, 1941, I sent one copy of the photo and with my
petition dated the 26th November, 1946, addressed to the
Premier of Madras, under Certificate of Posting, I sent another
copy and the same were not returned to me.

4. The return of the photo copy asked for in para 2
above may also be kindly expedited, as the same is required
urgently for my use.

Yours faithfully,

V. R. Janakiram Iyer
10.9.56



Not available
Defence
probably

(Not recd)

100/pilap
would have
been destroyed

The Hon'ble Minister in Charge of Education,
Fort St. George, Madras.

Entered 1917

Director of the Department of Indian Affairs,
Ottawa, Ontario, Canada.

Certificate of
Pushing obtained 1/73 Coral Merchants

80.1
The Secy
Σ1

RECEIVED SECRETARY TO GOVT
FEBRUARY 1956
101832
HEALTH, FOOD & LOCAL ADMIN. DEPT.
MADRAS

Mathialpet
Madrasi
22.9.56
Government
Department
Madrasi

Sri V. Madras Educational Department
- Chief Director of Public Instruction
Madras - Sri V. R. Tanakiraman
ex. clerk - Revision of orders & decisions

Please see my petition d. 10.9.56 and the previous petitions mentioned therein in the matter and I am sorry to note that I have not been favoured with Government orders either in the affirmative or in the negative respecting the same as required under Instruction XVII (7) of the Instructions for the Submission of petitions to the Government of Madras.

2/. In this connection I may also state that I submitted to you a petition for necessary action

even earlier in 1-2-1949
after Section 311 of the Indian
Constitution Act came into
operation and also in accordance
with the Privy Council's judgment
in respect of Section 240
of the Govt. of India Act of 1935
under which my case also
was covered and in same
way was also rejected.

5. I require very urgently the photo copy indicating the destruction of the defence document by the Enquiry officer and therefore I request that order be issued either way immediately together with the return of the photocopy to reach me within two days from the date of receipt of this petition.

Yours faithfully,

N. R. Tanaki Ramo
22.9.56

Health E.

Certificate of Posting
obtained

अन्तर्देशीय पत्र

इस पत्र के अन्दर कुछ न रखिये



To. The Secretary to
Government Education
Department. Fort St. George
Madras.

भेजने वाले का नाम और पता :-
Sri V. R. Tanaraki Karimiah
173 Corral Street
G. V. Medical Bldg.
Madras

तीसरा मोड़

दूसरा मोड़

GOVERNOR'S SECRETARIAT.

Endt. N. Dis. No. 4715/56

Raj Bhavan,
Guindy, Madras-22,

Dated: 10-10-56

Transferred to the Secretary to Government, Health, Education and Local
Administration
Department, Madras-9, for disposal. The communication has been acknowledged.

(By order of the Governor).

for *M. Lakshminarayana*
PRIVATE SECRETARY TO THE GOVERNOR
23/10/56

petition
[Copy of this, with Government's order, if any, should be filed in the Court.]
(Certificate of Posting obtained)

No. 1/73, Coral Merchant Street,
Muthialpet, George Town,
Madras,
7th October, 1956.

47/145
9/10

Procedural and Fraudulent Act of Criminal nature committed by Gazetted Officers in the Administration - Congress Government, Madras State - Most disgraceful for Congress Organisation. Redress sought for from His Excellency under Section 96(b) of the Government of India Act of 1919, copy of which is given hereunder, which directs the Governor to examine the complaint and award "Justice" in the case mentioned hereunder in the circumstances stated.

Section 96-B of the Government of India Act, 1919, runs as follows:-

"If any person appointed by the Government thinks himself wronged by an order of the official superior in a Governor's Province and on due application made to that superior does not receive the redress to which he may consider himself entitled he may without prejudice to any other right of redress complain to the Governor of the Province in order to obtain justice and the Governor is hereby directed to examine such complaint and require such action to be taken thereon as may appear to him just and equitable."

Note.- Suit under Section 477 of the Indian Penal Code is also proposed to be filed in the Criminal court against the Enquiry officer named herein for the offence committed by him in the case. Notice of filing the proposed suit has also been sent to him.

To
His Excellency the Governor of Madras,
Madras State.

May it please your Excellency,

Subject - Madras Educational Department, Office of the Director of Public Instructions, Madras, - Sri. V. R. Janakiram Iyer - Ex. Clerk - Dismissal - Wilful suppression and destruction of Defence documents by the Enquiry officer, Sri. D.S. Reddy, Divisional Inspector of Schools, Madras North Division (now Director of Public Instructions, Andhra) - Praying for the reversal of the orders of dismissal in the circumstances stated below.

(Revision)

The petitioner begs to submit that he has been seriously wronged by acts of Criminal nature by the Enquiry officer and the Director of Public Instructions in his case and his appeal in the matter made to Government Educational Department did not receive the redress to which he considers himself entitled and therefore without prejudice to any other right of redress presents this complaint to the Governor to obtain justice and prays His Excellency, who is directed in the Section 96-B of the Government of India Act, 1919, to examine complaint of this nature, to examine the complaint presented here and award justice, as may appear to him just and equitable.

2. The petitioner had put in by 1937, 22 years of

(M. Janakiram Iyer) permanent

permanent service continuously in the same office. Unfortunately, in the same year, a case was made against him on account of a complaint from a relative of his in the matter, not connected with his official duties, nor connected with the Office of the Director of Public Instructions, Madras, in which he was employed, and he was dismissed from the service suppressing and destroying his defence documents disproving the charge against him. The petitioner's case was fully dealt with in his appeal dated the 15th August, 1938, submitted to Government with all defence disproving the charge against him. In this connection, please see the wicked acts done in the case by the officers concerned given in the enclosure, which are of criminal nature. The Government sent the said appeal to the Public Service Commission for Examination and advise without the defence records which were already destroyed by the enquiry officer and therefore the Public Service Commission gave adverse decision in the case in their letter dated the 1st April, 1939, and this was accepted by the Government, and passed orders, rejecting the petitioner's appeal in G.O.No.935-Education dated the 25th April, 1939. Thereupon, the petitioner submitted his second appeal pointing out that the destruction of the Defence documents in the case occasioned failure of justice to him. In this appeal was not submitted to the Government by the Director of Public Instructions, but withheld in his Proceedings No.RC-375-F/39, dated the 16th August, 1939.

3. The petitioner interviewed the Chairman, Public Service Commission, Madras, and pointing out to him the said wicked acts and other irregularities and illegalities done in the case and the Chairman, Public Service Commission in his letter dated the 26th October, 1942, advised the petitioner to make representations again to Government direct in view of the serious nature of the acts done and the irregularities and illegalities observed by him. The petitioner did so accordingly, but the Government in their Memo. dated the 12th August, 1943, declined to re-open the question. The petitioner, however, continued his representations not tolerating such wicked acts in his case.

4. In 1948, the Privy Council gave decision in the case of a civil servant named Mr. Lal, and recommended his reinstatement, because of the

following irregularities and illegalities observed under Section 240 of the Government of India Act of 1935, and Rule 55 of the -- Classification Rules. These irregularities, ^{illegalities} ~~also~~ appeared also in the petitioner's case and the year of the case also the same of the petitioner's and they are given below:-

1. (a) Mr. Lal's case related to 1937,

(b) The petitioner's case also related to 1937.

2. (a) Mr. Lal's enquiry was held under Rule 55 of the -- Classification Rules.

(b) The petitioner's enquiry was also held under the same Rule.

3. (a) In the case of Mr. Lal, the Enquiry Officer's report was not disclosed to him.

(b) In the case of the petitioner, the Enquiry Officer's report was refused to be furnished in the Memo. dated the 4th June, 1938, of the D.P.I., Madras.

4. (a) In the case of Mr. Lal, he was not given opportunity to represent against the punishment proposed, as the result of the findings of the enquiry.

(b) In the petitioner's case also this procedure was not adopted.

5. In the case of the petitioner, wilful suppression and destruction of Defence documents which disproved the charge against him were also made.

Attention in this connection is also invited to G.O.No. 2128-Public Services, dated the 12th September, 1945, issued with reference to the said decision of the Privy Council stating that the Enquiry Officer's report should be furnished and the prescribed procedure of giving opportunity to represent against the punishment proposed as the result of the findings of the enquiry should also be followed.

5. Since the interpretation and the procedure given by the Privy Council related to a case of 1937, the same year of the -- petitioner's case, and since the above irregularities and illegalities appeared in the case of the petitioner also, it is just and equitable that the petitioner also should be reinstated in his appointment.

Further, the G.O. mentioned above was issued with reference to

C. J. T. J. the

the Privy Council's decision in respect of a case relating to 1937, and the orders therein should be taken to ^{reasonably} apply to earlier cases also, i.e., earlier to the date of the said G.O. On this analogy, the petitioner in addition to the irregularities and illegalities and also suppression and destruction of Defence documents appeared in this case requested for the revision of the orders of dismissal in several of his petitions to Government and it is most disappointing that neither the dismissal order was revised nor the petitioner's petitions rejected ^{under} and instructions XVII(7) of Instructions relating to the submission of petitions to Government.

6. The petitioner submits in the above circumstances that he has been treated very badly and prays for immediate orders of -

1. Revision of the dismissal order, passed against him with retrospective effect, or

2. Rejection of the petitioner's petitions in the matter.

7. The petitioner addressed the Government Educational Department several times for communicating early orders together with the photographic evidence in the matter with them, returned to him, since he wants the same for Court evidence, and no reply has been received by him so far.

Yours faithfully,

B. V. Tanakiramaiah
7.X.1956.

P.S.

If no justice is awarded to the petitioner, nor in the alternative, the petitions rejected under the Rules laid down by the Government itself and communicated to him very early, the petitioner proposes to ventilate his grievances ^{by} ~~by~~ ^{by} casting the wicked acts mentioned in printed leaf-lets and distributing the same among the M.L.A's, and Dravida Kazhagam and other Associations, interested in the welfare of innocent poor persons (who committed no proved fault) with the request to include this matter also in their Election propaganda and educate the Voters to vote for the deserving parties in the coming Elections.

brodcasting

Annexure

Government of Madras

(Congress Regime)

1. Roguish and Fraudulent Act in the Administration not rectified despite representations pointing out the same by Messrs. K. V. Rangachari, Advocate, and Dr. Varadiah Naidu, Honorary Presidency Magistrate, Madras. Madras Government Educational Department, Office of the Director of Public Instructions, Madras - Case against Sri. V. R. Janakiram Iyer, clerk of the office.

1. (a) Memo No. RC-524-F of 37 dated the 4th June, 1938, issued over the signature of the Deputy D.P.I. Madras. - showing clearly the wilful suppression by the Enquiry officer of the Defence documents disproving the charge against the clerk, the same having been examined and attested ~~by~~ by Advocate and filed and also proved as directed in para 6 of G.O. No. 275-Public services dated 5th February, 1937 at the Enquiry held on 9th December, 1937.

(b) Making also therein, deliberate false statement by the Enquiry officer that the Defence documents "mysteriously disappeared" in the course of the said enquiry, adding also that he suspected the documents in question should have been 'secreted' by the clerk. This is most unbelievable for the document was vital to the clerk which disproved the charge against him and also how could it have been 'secreted' by him.

(c) There is also photographic evidence with the Government showing the destruction of the said document stealthily on 9th December, 1937, the day of the Enquiry itself by the Enquiry Officer, as was proposed by the Senior Superintendent of the office. The entries therein appear quite genuine with reference to (a) and (b) above.

2. (a) Memo No. RC-524-F/37 dated the 5th March, 1938, issued over the signature of the Deputy Director of Public Instructions, dismissing the clerk from service. This was a fraudulent order for under the Rules in the case of the clerk the Deputy D.P.I. was not competent to issue the orders of dismissal and the procedure was

adopted (P.T.O.)

(B. V. Tanakiramaiah)

Government of Madras

to make the clerk understand that his appeal against the

order of dismissal should be made to the D.P.I. only, the

appellate authority, being the next higher authority, so that

the suppression and destruction of the Defence document might

be concealed in the end in the office of the D.P.I. itself.

(b) Memo RC 524-f of 1937, dated the 30th April, 1938, issued

over the signature of the Deputy D.P.I. Madras. In this

communication also a false and fraudulent statement is made

admitting the retention of the said documents which were

destroyed already with the office after the clerk was removed

from service on the 5th March, 1938.

Dr. Janaki Narayan
7-X-1956

*Health Education and Local
Administration Dept*

Undersecretary

HEA (2)

pp 7-14 above may

be added to the file. The

remarks call for from

the D.P.I. may be awaited

20-11-56

24-5-57
27/11/56
26/10

*Probably Sri V.R. Janakiram is much to
be expected to be disposed of
20 was ago. His appeal to
the Govt was rejected &
I remember with.*

(L) CF. 36
Sub. 70-10/CF. 36 (203352)

"Copy of this Petition with Government orders, if any, to be filed in the court."

(Certificate of posting obtained)

No. 1/73, Coral Merchant Street,
Muthialpet, George Town,
Madras, 1.
15th October, 1956.

To
Sri. K. Kamaraj Nadar,
Chief Minister,
Madras State, Madras.

Sir, CONGRESS GOVERNMENT - MAL-ADMINISTRATION.

He
ADDITIONAL SECRETARY TO GOVERNMENT
9 OCT 1956
115189
HEALTH, EDUCATION AND LOCAL ADMINISTRATION

Re. Madras Educational Department - Office of the
Director of Public Instructions, Madras, -
Disciplinary case against Sri. V. R. Janakiram Iyer,
clerk of the office, Suppression and destruction
of valuable Defence Records.

In the above matter, the Enquiry officer, Sri. D. S.
Reddy, Divisional Inspector of Schools, North Madras Division,
(now Director of Public Instructions, Andhra State) stealthily
suppressed and destroyed valuable Defence records and his action
ended in the dismissal of the clerk after a permanent service
of twenty two years in the same office. Any amount of
representations to the higher authorities in the matter according
to the Privy Council's decision proved no good.

Under the advice of Sri. C. Rajagopalachariar in
writing to me that I would be able to get justice from the present
authorities I submitted to Government several petitions but I got
no reply so far. I have also on the 7th October, 1956, --
petitioned to His Excellency the Governor in the matter for --
suitable action under Section 96-B of the Government of India Act
of 1919, which directs the Governor to examine such complaints
and pass orders just and equitable. Meanwhile, not tolerating
the wicked act of the Enquiry officer, I have also on 9th October,
1956, issued to him a suit notice under Section 477 of the Indian
Penal Code for ~~the offence~~ in a Criminal Court for the offence
committed by him.

Now before going to Court I am again advised to
approach you in the matter in writing, being the head of --
administration with a request for examining the case and arranging
to issue early orders in the matter. The said wicked act by a
Gazetted officer under the Congress administration is more
disgraceful and most disgraceful to the Congress officers itself,
which preaches the Gospel of protecting the interests for the
innocent poor people (who commit no proved fault) and also to
maintaining ~~maintaining~~ *organisation* *of* *T.O.*

18th October, 1956.
No. 1, 1/2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

maintaining
maintain honesty and justice. Therefore, the said wicked act
requires looking into personally, since you are responsible to
maintain your esteemed office and the prestige of the Congress
Government and therefore I request you to be kind enough to
look into the matter in the midst of your multifarious work and
arrange to issue orders remedying the said wicked act by revising
the orders of dismissal or rejecting my petitions under --
instructions XVII(7) of the Instructions issued by Government
relating to the submission of petitions to Head of Government and
giving me at the same time a reply to that effect, for which I am
also entitled ^{under} and the same instruction at a very early date so that
that I may be able to file the proposed suit within the Statutory
period.

Yours faithfully,
V. R. Tanaki Ramoigil.
15. X. 1956.

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(Under Certificate of Posting)

VERY URGENT.

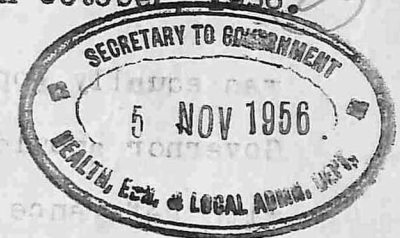
Madras,
No.1/73, Coral Merchant Street,
George Town, Madras, 1.

29th October 1956.

To

His Excellency The Governor of Madras,

May it please your Excellency.



Subject - Roguish and fraudulent acts of criminal nature committed by Gazetted officers including wilful suppression and destruction of Defence Records - Madras Educational Department - Office of the Director of Public Instructions Madras - Disciplinary case against Sri. V. R. Janakiram Iyer - Ex-clerk of the office - already reported.

Under advise from Sri. C. Rajagopalachariar, I submitted a complaint to the Governor on the 7th October, 1956, under Section 96-B of the Government of India Act of 1919 in the above matter. The said Section of the Act directs the Governor to examine such complaint and pass just and equitable orders. So far no such orders have been received. Before laying down by His Excellency of his office which is to take place shortly, I pray that the above wicked acts may be rectified so that the prestige of the Congress Government and of His Excellency's administration ^{which} ~~it~~ is considered to be bright according to his name may be maintained. Otherwise, His Excellency will be leaving behind a 'blot' in his administration and also 'disgrace' to the Congress Government, when the matter is to be taken to Court of Law, as already contemplated if no justice is got from His Excellency.

In the case of Mr. Lall, cited in my complaint, mentioned above, the Privy Council in their decision given on the 18th March, 1948, advised His Majesty - Then India was under British Administration, and as the case related to the year 1937 - to issue a declaration that the order of dismissal passed ^{against} ~~against~~ him was 'void and inoperative' on account of certain illegalities in the procedure. My case also related to the same year (1937) and also similar illegalities mentioned in my complaint occurred in my case also, and my case was also stronger because of the wilful -- destruction of my defence records made by the enquiry officer which was itself a sufficient ground for the revision of the order of dismissal passed against me.

The advise given to His Majesty by the Privy Council

(Certificate of Posting Obtained)

No.1/73, Coral Merchant Street,
George Town, Madras, 1.
5th November, 1956.

To

The Secretary to Government, Health, Education and
Local Administration Department,
Fort St. George, Madras, 9.

Sir,

Subject - Madras Educational Department - Office of the
Director of Public Instructions, Madras -
Disciplinary case against V. R. Janakiram Iyer,
clerk of the office and his dismissal from service -
Wilful suppression and destruction of Defence records
and other irregularities and illegalities -
Complaint to H.E. the Governor of Madras States
under Section 96-B of the Government of India Act,
of 1919.



I beg to state that my complaint petition dated the 7th
October, 1956, mentioned above in the matter addressed to His
Excellency the Governor of Madras States has been acknowledged in
the letter No.4715 of 56 dated the 10th October, 1956, signed by
the Private Secretary to His Excellency, and at the same time
informing me that it has been transferred to you for disposal and
that further correspondence on the subject may be addressed to you
direct - Vide also Government endorsement Noll0500-E of 56 dated
the 29th October, 1956.

2. In the said Act, the Governor is directed to examine the
complaint presented by me without prejudice to any other right of
redress and pass just and equitable orders. Therefore, for the
reasons already stated therein, and also in several of my petitions
addressed to Government, and also in the circumstances stated herein,
the complaint may kindly be caused to be examined by His Excellency
in detail and his orders communicated to me at a very early date,
since H.E. is the authority competent under the Rules to revise H.E.'s
orders rejecting my appeal in G.O.No.935-Education dated 25-4-1939
3. Please see ^(a) in this connection my appeal petition
dated 24-9-1945, for the revision of the orders of dismissal passed
against me, addressed to the Secretary to Government, Educational
Department, Madras, -sent by registered post direct and the same also
sent through the D.P.I. Madras, the latter also was sent by
registered post and acknowledgment ~~by~~ for both were received by me -
with reference to the Federal Court Judgment of the 4th May, 1945 -
copy enclosed therewith - pronounced in the case of Mr. Lala

cited

P.V.D.

was equally applicable to the Governor also and the then
Governor should have issued a similar declaration in my case
with reference to the representations made in my petition

dated the 1st February, 1949. Since he did not do so, I now
pray His Excellency to be kind enough to issue such a
declaration in the circumstances immediately and pass orders
to communicate the same to me at an early date;

For which kind act I shall remain ever grateful.

Yours faithfully,

V. R. Janakiram Iyer
29-X-1956.

H.E.A. (P)

pp 19-21 ante may be
added to the file. The Director's
remarks in the matter may
be awaited 24/11/56

1956/F

1956/J

cited as a similar case to mine who had also been through an enquiry under Rule 55 of the Civil Services - Classification, Control and Appeal, stating that under Section 240(3) of the Government of India Act of 1935 no opportunity was given to him for making representations against the punishment of dismissal proposed against him, and the failure to follow this procedure was a breach of statutory obligation, and therefore he was wrongfully dismissed. The same breach of procedure occurred in my case also, and therefore I was also wrongfully ^{dismissed} and therefore I applied for the revision of orders of dismissal in my petition dated 24-9-1945, mentioned above.

3(b) Please see also my petition dated 1-2-1949, addressed to the Secretary to Government, Education Department, direct by registered post and acknowledgment also obtained, for the revision of the orders of dismissal passed against me, with reference to the decision of the Privy Council given on the 18-3-1948, - copy of relevant portion also enclosed - which also pronounced among other things that in the case of persons who had been through an enquiry under Rule 55 of the Classification ^{Control & Appeal} Rules "A purported removal of a civil servant without giving him the opportunity to which he is entitled under Section 240(3) is void and inoperative and therefore advised His Majesty to issue a Declaration that the dismissal order passed against Mr. Lal was 'void and inoperative.' According to this Judgment of the Privy Council, the H.E. The Governor should also have issued a similar declaration, as the advise given to His Majesty equally applies also to H.E. with reference to the representations made in my petition mentioned above, since the case of mine also relates to 1937, as that of Mr. Lal's and also that the procedure in sub-section 3 of Section 240 of the Government of India Act of 1935, viz., No such person as aforesaid shall be dismissed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him., was not followed in my case, ^{ie} ~~via.~~ ^{Cause} I was not given a reasonable opportunity of showing ~~case~~ ^{cause} against the action of dismissal proposed to be taken in regard to me.

4. As already stated the following illegalities were made in my case:-

(Certificate of Position Continued)

The Secretary to Government, Health, Education and Local Administration Department,
Fort St. George, Madras, India.

Subject - Madras Educational Department - Office of the Director of Public Instruction, Madras - Disiplinary case against V. S. Sankaranarayanan, Iyer, of the office and his dismissal from service with suspension and deprivation of benefits and other privileges and allowances - The Government of Madras State, under Section 98-B of the Government of India Act, of 1935.

I had to state that my complaint petition dated the 24th October, 1950, mentioned above in the matter addressed to His Excellency the Governor of Madras State has been acknowledged in the letter No. 115 of 26 dated the 10th October, 1950, signed by the Private Secretary to His Excellency, and at the same time informing me that it had been forwarded to you for disposal. In further correspondence on the subject may be referred to you about - vide also Government Order No. 101000-7 of 26 dated the 20th October, 1950.

2. In the said Act the Governor is directed to examine the complaint presented by me without prejudice to any other right of reference and appeal, and that and equitable order. The fact that the complaint was filed in the said Act in violation of my petition addressed to Government and also in the circumstances stated above, the complaint may kindly be caused to be examined by His Excellency in detail and the order communicated to me as very early as possible. It is the duty of the Government to give to the complainant a fair and equitable order. The fact that the complaint was filed in the said Act in violation of my petition addressed to Government and also in the circumstances stated above, the complaint may kindly be caused to be examined by His Excellency in detail and the order communicated to me as very early as possible.

3. I have to state that in the 1st instance, the complaint was filed in the said Act in violation of my petition addressed to Government and also in the circumstances stated above, the complaint may kindly be caused to be examined by His Excellency in detail and the order communicated to me as very early as possible.

4. As already stated the following illegalities were made in my case:-

(31)

2

1. Wilful suppression and destruction of defence records.
2. Refusal to furnish copy of the Enquiry Officer's report.
3. No opportunity was given to me to show cause against the punishment of dismissal proposed to be inflicted in the case against me (vide also G.O.No.2128-PS dated 12-9-1945)

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(a) In regard to (1) the wicked act is itself a sufficient ground for the revision of the order of dismissal against me. In respect of this, it is stated that the said records "mysteriously disappeared" in the course of enquiry adding also that the Enquiry officer suspected that they should have been 'secreted' by me. I had all along been thinking that these documents which ^{disproved} ~~disproved~~ the charge against me were on file and their 'mysterious disappearance' was a great shock to me, and it was stranger still and also unbelievable to any man having common sense on the ^{earth} ~~earth~~ that I should be supposed ^{to} ~~that~~ have 'secreted' the defence documents which disproved the charge against me. In case of suspicion, in case of offences relating to the secretion of documents committed in the course of enquiry, a preliminary enquiry should also be held in the matter and a finding recorded, and if the finding is against the accused, he should be given an opportunity to defend himself and only thereafter the proceedings of the main case should be -- proceeded with. Nothing of the kind was done by the Enquiry officer and the records in my possession and in the possession of the -- Government well-prove that the Defence records were wilfully suppressed and destroyed by the Enquiry officer.

Note - A suit notice under Section 477 of the I.P.C. in this regard was issued on 9-10-1956, to him and he has not acknowledged the receipt of the notice nor sent his reply thereto. His silence clearly reveals the guilt which should be considered legally to have been admitted by him. However, I have instructed my Advocate to defer filing of the proposed suit till the receipt of orders on my -- complaint dated 7-10-1956, preferred to the Governor under Section 96-B of the Government of India Act 1919.

Handwritten signature

(b) As regards (No.2,) the refusal to supply me with a copy of the Enquiry Officer's report, ^{seem} ~~seem~~ to be a move to prevent

Handwritten signature P.S.D. my

31

2

1. Wilful suppression and destruction of defence records.
2. Refusal to furnish copy of the Enquiry Officer's report.
3. No opportunity was given to me to show cause against the punishment of dismissal proposed to be inflicted in the case against me (vide also G.O.No.2128-PS dated 12-9-1946)

(a) In regard to (1) the wicked act is itself a sufficient ground for the revision of the order of dismissal against me. In respect of this, it is stated that the said records "mysteriously disappeared" in the course of enquiry adding also that the Enquiry officer suspected that they should have been 'secreted' by me. I had all along been thinking that these documents which ^{disproved} ~~disproved~~ the charge against me were on file and their 'mysterious disappearance' was a great shock to me, and it was stranger still and also unbelievable to any man having common sense on the ^{earth} ~~earth~~ that I should be supposed ^{to} ~~that~~ have 'secreted' the defence documents which disproved the charge against me. In case of suspicion, in case of offences relating to the secretion of documents committed in the course of enquiry, a preliminary enquiry should also be held in the matter and a finding recorded, and if the finding is against the accused, he should be given an opportunity to defend himself and only thereafter the proceedings of the main case should be -- proceeded with. Nothing of the kind was done by the Enquiry officer and the records in my possession and in the possession of the -- Government well-prove that the Defence records were wilfully suppressed and destroyed by the Enquiry officer.

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(b) As regards (No.2,) the refusal to supply me with a copy of the Enquiry Officer's report, ^{seem} ~~seem~~ to be a move to prevent

my P.T.O.

p9aut

Signature

my knowing the facts and the correct findings of the Enquiry Officer. This is another ground for the revision of the order of dismissal passed against me.

(c) The procedure mentioned in No.3 above was -- compulsory under Section 240(Sub-Division3) of the Government of India Act, 1935) and it was not followed in my case and it is also another ground for the revision of the Order of dismissal against me.

5. In regard to the Judgment on my appeal dated the 15th August, 1938, originally submitted, neither the Public Service Commission - the Judging Tribunal, gave any verdict, nor the Government pronounced any decision in regard to the suppression of the Defence records dealt with/in paras 49-58 of my appeal dated 15-8-1938, rejected in G.O.No.935-Education dated the 25th April, 1939. The Public Service Commission's verdict is therefore ill-considered and incomplete and cannot be called legal and therefore must be set aside. This course of action is against the prescribed procedure of law for the appellate authorities -- Judgment should afford a clear indication that the points urged by the appellant have been duly considered and decided. It ought to contain enough particulars to satisfy that the case was examined in every aspect. A Judgment is not a legal one if it does not contain the point or points for determination raised in the appeal, the decisions thereon, and the reasons for the decision.

6. Finally, it is represented that with reference to Section 240(Sub Section3) of the Government of India Act 1935, the Privy Council gave decision in their judgment on the 18th March, 1948, "That in the case of persons who had been through an enquiry under Rule 55 of the Civil Services(Classification, Control and appeal Rules) a ^{civil} purported removal of a ~~civil~~ servant without giving him the opportunity to which he is entitled is 'void and inoperative'. I had also been through an enquiry under the same Rule and such opportunity to which I was also entitled was not given to me and therefore, I request His Excellency to issue a Declaration that the order of dismissal passed against me was 'void and inoperative' -- immediately also entitling me to all rights secured to me by the

p56/F

the Rules and Regulations issued from time to time by the --
appropriate authority.

Amzi Awaiting early favourable orders,

Yours faithfully,

V. R. Tana Kikawairi.
5.11.1956.

P. S.

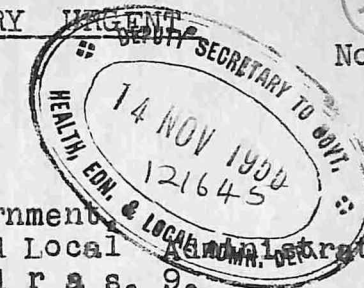
P. 21
and

Attention is also solicited to my
petition d 29. x. 1956 addressed to His
Excellency and the same has been transferred
to Secretary to Government, Health
Education and Local Administration
Department under 9 in the Governor's
Secretariat letter No 5100/56 d 1.11.56.

Gd. Tana Kikawairi.
5.11.1956.

(Certificate of posting obtained)

VERY URGENT



No.1/73, Coral Merchant Street, George Town, Madras, 1.
13th November, 1956.

To
The Secretary to Government,
Health, Education, and Local Administration Department,
Fort St. George, Madras. 9.

Sir,

Subject - Madras Educational Department - Office of the Director of Public Instructions, Madras - Dismissal from service of V. R. Janakiram Iyer - Ex-clerk, - Declaration by His Excellency that the said dismissal order is "Void and In-operative" - Requesting for communication of orders before the 20th November, 1956, in the circumstances stated.

Furtherance, to my petitions in the matter, the last being dated the 5th October, 1956, addressed to you with reference to the directions in the replies dated the 10th October, 1956, and the 1st November, 1956, received by me from the Private Secretary to His Excellency the Governor of Madras States, and also to my petition dated the 15th October, 1956, addressed to the Chief Minister -- representing the wicked act of the Enquiry officer, which was itself a sufficient ground for the revision of the orders of dismissal against me, and also requesting to arrange to expedite the -- communication of such revision orders to me before the expiry of the Statutory period in respect of my suit notice dated the 9th October, 1956, given to the Enquiry officer, I have to inform you that I am advised by my Advocate that the statutory period of the notice expires on the 20th November, 1956.

2(a) It has already been represented by me that in the case of civil servants who had been through an enquiry under Rule 55 of the Civil Services - Classification control and appeal, the Federal Court of India in their Judgment dated the 4th ^{May} September, 1945, pronounced that "Opportunity should be given to the accused for making representations against the punishment of dismissal proposed against him, and failure to observe this procedure was a breach of "Statutory obligation", and because this procedure was not followed in the case of Mr. Lall they held in their said Judgment that he was wrongfully dismissed.

(b) With reference to the above Judgment of the Federal Court only G.O. No.2128, Public Services, dated the 12th --
September,

HSAA (2)

pp 19-31 auto may be added to the file. The Director's remarks in the matter may be awaited till 1.12.56

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12.11.56

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P23a/b

P15a/b

1 P.T.D.

(35)

September, 1945, was issued.

(c) The Privy Council's Judgment in the matter -- pronounced on the 18th March, 1948, is more clear and also holding "compulsory" the observance of the procedure mentioned above under Section 240(3) of the Government of India Act, 1935. The observance of this procedure is also laid down in Section 311 of the Indian Constitution Act.

3. My case related to the same year of Mr. Lall, namely 1937, and the said Judgments of the Federal court and the Privy Council are equally applicable in my case also. The procedure mentioned above under Section 240(3) of the Government of India Act, 1935, was not followed in my case also and the failure to follow the same in my case was also a breach of statutory obligation, and therefore I must also be considered to have been wrongfully dismissed.

4. It is also pronounced in the said Privy Council's decision that "A purported removal of a civil servant without giving him the opportunity, to which he is entitled, i.e., the opportunity mentioned above under Section 240⁽³⁾ of the Government of India, Act, 1935, is "Void and In-operative." Therefore, in accordance with the above decision of the Privy Council the dismissal order passed against me should have been already declared "Void and inoperative" by His Excellency with reference to the representations made to H.E. and the Government for the same from 1945, in accordance with the Federal Court's Judgment dated the 4th May, 1945, and from 1949, in accordance with the Privy Council's Judgment dated the 18th March, 1948, in several of my petitions - enclosing also extracts of the said Judgments (for reference) and proving also clearly the wicked act of the suppression and -- destruction of ^{my} Defence records by the Enquiry officer, also being another ground for the revision of the dismissal order. At least now I request that I may be favoured immediately with the orders of Declaration, stating that the order of dismissal passed -- against me was "Void and In-operative" also entitling me to all rights secured to me by the Rules and Regulations issued from time to time by the appropriate authority.

Yours faithfully,
V.R. Taraki Ramani
13.11.1954

The Secretary to Government,
Health, Education and Local Administra-
tion Department, Madras.

Station Madras.

Sir

Ref: Government Endorsement No. 96739 E1/56-1 Education
dated 1-10-56.

Yours faithfully.

Megangarayaiah
14.11.56
FOR DIRECTOR OF PUBLIC INSTRUCTION

TS 12-11

$\frac{1.0}{14.11.56} M$

(Under Certificate of Posting Obtained)

No.1/73, Coral Merchant Street,
George Town, Madras, 1.
29th November, 1956.

To

The Secretary to Government,
Health, Education and Local Administration Department,
Madras.

Sir,



Subject - Direction - Establishment - Office of the Director
of Public Instructions, Madras - Sri. V. R.
Janakiram Iyer - Ex-Clerk - Dismissal from
service.

I am in receipt of Government Memo No.96739-E-1 of 56-2-

Education, dated the 22nd November, 1956, issued with reference to
my petition dated 13-11-1956, and noted the contents therein. In the
said petition of mine I have not applied for the return of the
documents relating to Photographic evidence indicating the --
suppression and destruction of my Defence records by the Enquiry
officer but on the other hand I have requested therein for --
declaration being issued by His Excellency, stating that the
dismissal order passed against me in the proceedings R.C.No.524-F of
37, dated the 5-3-1948 of the Director of Public Instructions,
Madras is "void and inoperative" under Section 240(3) of the Government
of India Act, 1935, which is mandatory, in the circumstances already
stated. In this connection I have to state that I have applied for
the return of the said documents in my earlier petitions together
with orders revising the dismissal order on account of the wilful
suppression and destruction of my Defence records, which was itself
a sufficient ground for the revision of the said Dismissal order.

2. Please see also my petition dated 20-11-1956, requesting
for early communication of orders of disposals on my petitions --
dated 9-10-1956 and 29-10-1956, addressed to His Excellency, --
according to the directions contained in the Memos dated 10-10-56
and 1-11-56 received from the Governor's Secretariat in the matter.

3. According to the Judgment dated 4-5-1945, of the
Federal Court of India and the Judgment dated 18-3-1948 of the Privy
Council, the dismissal order passed against me in the Proceedings
RC.No.524-F of 37 dated ⁵⁻³⁻¹⁹⁴⁸ 5-3-1948 of the Director of Public Instructions
Madras, should immediately have been declared "Void and Inoperative"

HRA(B)

p-39 auto may be

added to the file. [The DPJ

Director's final order
will be remitted after 1-12-56
may be awarded

1-12-56

26-11-56

27-11-56

Probably HRAJ

has gone out of his
senses in addition

to his confusion in the

by His Excellency under Section 240(3) of the Government of India Act, of 1935, with reference to the request for the same -- contained in my petitions dated 24-9-1945 and 1-2-1949, addressed to Government Education Department, Madras. Since this was not done and since the directions in the said Judgment are mandatory should be followed in my case also by His Excellency. I again request you to be kind enough to obtain the orders of His Excellency declaring the dismissal order passed against me "void and inoperative" entitling me also to all rights secured to me by the Rules and Regulations issued from time to time by the appropriate authority and communicate the same to me at a very early date, as the matter has been pending for a very long time.

Yours faithfully,

V.R. Janaki Raman
29.11.1956.

HEA (E)

28/8.12 Memo no: 96739 Sc/SB. 3 Edh. 7.12.56

Sub. Estt- Office of the D.P.J, Madras.

Sri. V.R. Janakiram Iyer, Es.

Clerk, - Petn against dismissal.

Ref: From the D.P.J. no. 795 cis/SB

19.12.11.56

The D.P.J is requested to send his reply in the matter expeditiously

he
5/12/56

5/12/56

12.12

12.12

44

PP 22

HSAH (cc)

pp 41-43 ante may
be added to the file.

(Under Certificate of posting obtained)

VERY URGENT.

No.1/73. Coral Merchant Street,
George Town, Madras, 1.
3rd December, 1956.

5579

8 DEC 1956

To
His Excellency Governor of Madras State,
Raj Bahvan, Guindy, Madras, 22.

May it please your Excellency,

Subject - Madras Education Department - Office of
the Director of Public Instructions, Madras -
Sri. V. R. Janakirama Iyer - Clerk, - Dismissal
from service.



His Excellency's orders of disposal on my complaint dated the 7th October, 1956, preferred to him under Section 96-B of the Government of India Act of 1919, in regard to the wilful suppression and destruction of my Defence records by the Enquiry officer, have not been received so far and I am informed by my Advocate that the Court wants the same to be filed in connection with the criminal suit against him under Section 477, Indian Penal Code (Suppression and destruction of valuable records). My Advocate has given me time for the same to be produced for filing before the 8th December, 1956, and therefore I request His Excellency to favour me with his orders of disposal before that date.

2. His Excellency's orders declaring the order of -- dismissal passed against me in the proceedings RC No.524-FI of 1937, dated the 5th March, 1938, of the Director of Public Instructions, Madras, "Void and Inoperative" according to the Judgment dated the 18th March, 1948, of the Privy Council under Section 240(3) of the Government of India Act of 1935 (which is Mandatory) may also be kindly furnished as already requested in my petitions in the -- circumstances represented.

3. Awaiting very early orders,

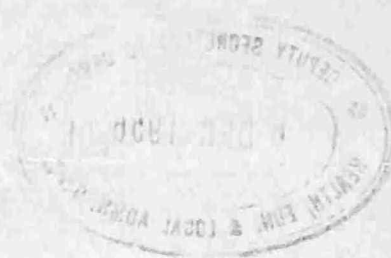
Yours faithfully,

P.S.

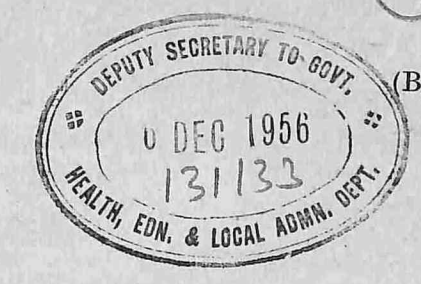
V. R. Janaki Ramani
3.12.1956

According to the directions contained in the Memoirs dated 10.10.1956 & 1.11.56 received from the Governor's Secretariat in the matter, the Secretary to Government Education Department was addressed on 5.11.1956, 12.11.1956, 13.11.1956, 20.11.1956 & 24.11.1956 and no order in the matter were communicated to me so far.

46
ppr
The following is a list of the names of the persons who have been appointed to the various posts in the Government of Madras, for the year 1956-57. The names are given in the order in which they were appointed, and are followed by the date of their appointment. The names are given in the order in which they were appointed, and are followed by the date of their appointment.



GOVERNOR'S SECRETARIAT.
Endt. N. Dis. No. 5579/56
Raj Bhavan,
Guindy, Madras-22,
Dated: 4-12-56
Transferred to the Secretary to Government, Health, Education and Local Administration in continuation of this office*
/ Department, Madras-9, for disposal. The communication has been acknowledged.
*Endt.No.5100/56 d/1-12-56.
1-11-56 - p. 19 ante
(By order of the Governor).
PRIVATE SECRETARY TO THE GOVERNOR.
21/12/56



W 13/12/58
R. R.
13/12

GOVERNOR'S SECRETARIAT.

Endt. N. Dis. No. 15/57

Raj Bhavan,
Guindy, Madras-22,

Dated: 4-1-57.

Transferred to the Secretary to Government, Health, Education and Local Administration in continuation of this office Endt.*
/Department, Madras-9, for disposal/ The communication has been acknowledged.

*No.4715/56 d/10-10-56.

(By order of the Governor).



PRIVATE SECRETARY TO THE GOVERNOR.

24/11/57

15/1/57
(Certificate of posting obtained)
(Very Urgent)

448
53
No.1/73, Coral Merchant
Street, George town,
Madras,
31st December, 1956.

To

H. E. A. J. John,
Governor of Madras State,
Raj Bhavan, Guindy, Madras, 22,

(This is addressed by name to the Present Governor with the request to look into the case personally since no orders were passed and communicated to me on my complaint made to the previous Governor on the 7th October, 1956, in the matter below under Section 96-B of the Government of India Act of 1919, although it was his duty that he should examine such complaints and pass equitable and just orders as laid down in the said Section of the said Act).

May it please your Excellency,

Subject - Madras Educational Department - Office of
the Director of Public Instructions, Madras, -
Dismissal of Sri. V. R. Janaki Rama Iyer - clerk, -

p. 9 aye
In the above matter, I preferred a complaint on the 7th 10th October, 1956, to the previous Governor under Section 96-B of the Government of India Act of 1919, complaining roguish and fraudulent acts indicating destruction of Defence records, also proved by photographic evidence, and also of issuing of -- Proceedings to me screening the said wicked acts and I was -- informed in the Governor's Secretariat letter No. 4715 of 1956 dated the 10th October, 1956, that the same was ^{transferred} transferred to the Secretary to the Government, Educational Department, for disposal together with the instructions that further -- correspondence on the subject might be addressed to him.

2. In the said section of the said Act, the Governor is directed to examine complaints of the kind preferred by me, and passed just and equitable orders. It is most unfortunate that the same without being examined by the Governor was -- transferred to the Secretary for disposal. It is also most unfortunate that no orders have been received by me so far on the said complaint of mine from the said Secretary also.

3. The defence records were destroyed by the Enquiry Officer, and notice of action against him in Criminal Court under Section 477 of the Indian Penal Code has already been issued to him and his acknowledgment taken and further legal steps in the matter are being taken separately and for this

(45) 5

- 2 -

purpose the Court wants Governor's orders of disposal on the said complaint to be filed. I have ^{requested} ~~requested~~ for the same in several of my petitions addressed to the ^{previous} ~~previous~~ Governor and to the Secretary to Government, Education Department, and so far, no orders of disposal on my complaint have been communicated to me. Attention in this connection, is also solicited to the letters No. 5100 of 1956, dated the 1st November, 1956, and No. 5579 ~~5100~~ of 1956 dated the 4th December, 1956, received by me from the Governor's Secretariat, Madras.

4. Another matter, that I may submit for the information of His Excellency is that under Section 240(3) of the Government of India Act, 1935 the dismissal order passed against me in Proceedings No. 524/F of 1937 dated the 5th March, 1938, ~~should~~ of the Director of Public Instructions, Madras, should have been declared void and inoperative with reference to the Judgment, dated ~~the~~ ^{14th} May, 1945, of the Federal Court of India, and dated the 18-3-1948, of the Privy Council and I submitted several petitions for the same addressed to the previous Governor, but no orders were communicated to me on this matter also.

5. The said wicked act, of Roguish nature and the -- fraudulent orders of Proceedings issued to me screening the same is sheer disgrace to Statutory Government and more so to Congress administration which preaches the Gospel of helping the poor and of according justice in cases where injustice has been done. Shri C. Rajagopalachariar, former Chief Minister of Madras, also has advised me in writing to address the present authority for justice being done to me in the circumstances. Therefore in the above circumstances, I request Your Excellency to examine my complaint personally according to the directions laid down in Section 96-B of the Government of India Act of 1919, and pass just and equitable orders on my complaint and arrange to communicate the same to me at a very early date since the same is required to be filed in the Court.

1.38 mk
6. In this connection, I am also informing His -- Excellency that I have received Memo dated 22-11-1956, from the

Secretary to Government, Education Department informing me of the return

40 5

- 3 -

return of the Photographs evidence with reference to my --
petition dated the 13-11-1956, though I have not asked for the
same to be returned to me in the said petition.

7. Awaiting receipt of early orders of disposal on my
complaint by His Excellency at least now.

Yours faithfully,

V.R. Tanakiramaiah
31-12-1956.

Note. If no consideration is given to
my case (rather to my complaint)
even in spite of the advice of Sri
C. Raja gopalachari in writing
there is no other alternative
to seek justice from the present
Congress Government.

VR
3/12/56

(47)

Memo. no. 96739 E/56-5 Edh 18.1.57

Petitions against dismissal
from service.

cf.

pp. 1, 3 & 5
9, 15 & 21
23, 33 & 39
41, 45 & 53

p. 49 cf.

Ref: - From Sri V. R. Janakirama Iyer,
5/-24.8.56 10.9.56, 22-9.56
7.10.56, 15-10.56, 29-10.56
5-11.56, 13-11.56, 20-11.56
29-11.56, 3-12.56 & 31.12.56

From the S.O.I. no. 795-C.15/56
8/-12.12.56

Sri V. R. Janakirama

Iyer is informed that as
his several previous representa-
tions were, after ~~careful~~ ^{careful}
consideration, rejected, his ~~present~~
petitions cited above, have
been ignored.

17-157

(F) & (B)

Checked by	✓
Dispatched by	✓
Despatche's Initials	195

11.1.57.

To

Sri V. R. Janakirama Iyer,
1/73, Coral Merchant St., T.T., Madras.

Copy to the S.O.I.

Note:-

The S.O.I.'s letter at
pp. 30-50 cf. of S.O. no. 935-Edh,
5/-25-4-39, explains the case in
detail. The dismissed clerk's
appeal to Govt. was rejected, on
the advice of the M.P.S.C. in 1939.
His memorial to the Governor was

H.E.A. (E)

Memo. no. 96739 E/56-5 Edh

Sub: Estt. Office of the S.P. Madras.

Sri V. R. Janakirama Iyer, Ex-clerk.

Dismissed from service - Petn against

Ref: From Sri V. R. Janakirama Iyer,
Petn of 31.12.56 to the Governor

The matter is under the
consideration of Govt

he
10.1.57

To
The S.P.
Sri V. R. Janakirama
Iyer
Address as in p. 3 ante

(F)

(F) cf. 56-

* (F) cf. 52-53

also turned down. Subsequently, Sri Janakirama Iyer ^{regular} seems to have sent up at intervals crops of petitions; he did not succeed. Legally also, he has no case - Vide the notes at pp. 7-8 of T.O. 689 - ~~En~~, 21-1-4-46. He cannot seek now to have the matter reconsidered - of the remarks of the D.O. I. of the D.S. at pp. 49 & 40 of the draft overlay is for ~~approval~~ ^{approval}. (If no reply at all is considered ~~held~~ ^{neey}, the papers may be filed with (J).) Some.

17-157

11.1.57

9.0.66-En. (B)
15-1-60
(J) 9.0.689 En. (Some late papers closed as Minos. not traceable; evidence destroyed)
(J)

cf.

2. P.H. de Mo
B

pl of C48306B From the D.P.D., N.R.O.C. No. 555-2/45 d 22.10.45
57329. From Sri K. Srinivasan - Advocate, 8.14.12.45

Petition - Sri V.R. Janakirama Ayyar - Ex-clerk, Office of the D.P.D.

The petitioner, ^{Sri} V.R. Janakirama Ayyar, formerly a clerk in the D.P.D.'s office, was dismissed from service on 4.3.38 by the Director in his proceedings R.C. No. 524 7/37 d 29.10.38. The petitioner preferred an appeal to the Govt against the Director's order. The appeal was dismissed after obtaining the views of the M.P.S.C on it. Subsequently he submitted a second petition to the late Prime Minister (Mr. C. Rajagopalachari) and a memorial to H.E. the Govr. Both these were rejected. Again he sent a number of petitions to Govt; these were also rejected.

N 35 of 30.9.39 25.11.39 (U)

U/56
Vide pp 66 (C) 15.11.40

cf/w
memos destroyed, brief (T)

pp 1-6 of (U)

2 In his present petition Sri Janakirama Ayyar refers to a judgment of the Federal Court. Attention is invited to the Commission's letter at pp 52-53 of G.O. No. 935-Edn, d 25.4.39 in which the Commn ~~was of the view~~ considered that rule 55 of the Clarifica, Control & Appeal Rules was followed in respect of the charge for which the ~~petitioner~~ appellant was dismissed. The petition seems to deserve no consideration. A draft memo is sent for appra. ^{ava} 14.12.45

2. Under instructions from the clerk, Sri K. Srinivasan Advocate has given notice that his client proposes to file a suit for the recovery of the amounts due to ~~the client~~ from the date of suspension on the ground that he was wrongfully dismissed & that there was a breach of the statutory provisions. Attention is in this connection directed to the legal dept's note on 6th Jan. no 1826 Edu & 7.11.45. In the present case it has been considered that there has been no breach of the Civil Services (Classification Control & Appeal) Rules. vide para 2 above. After the expiry of the period of notice, if the clerk files a suit as proposed, it may be defended. It is for consideration whether the petition to govt may be rejected now.

The remarks of legal may be invited as
12/12/45
19/12/45 S

A note - I am
w/ the matter is being at an
or even advisable, if it must be a
for making him for limitation.

LEGAL DEPARTMENT.

All that was stated in the note of this Department referred to above was that the decision of the Federal Court in Lall's case (1945 - 21 M.L.J. 270) shows that a breach of the statutory provisions will give rise to a cause of action against the Government ~~and that~~

and that in the case to which that note had reference, there seemed ~~to be~~ to be no such breach. In this case, the aggrieved person who has been dismissed, viz., Sri V.R. Janakirama Iyer, definitely refers to the Federal Court's decision and states that the procedure indicated in the Federal Court's ruling was not followed in his case. If the matter goes to the Court it is likely to hold that the order of dismissal is void and inoperative and there is also the possibility of the Government being mulcted with costs. The fact that the

ASSISTANT SECRETARY I
21 DEC 1945
LEGAL DEPARTMENT.

E. & P. H. No. 42688-1 B. Edu
20-12-45.

Legal no. 07948C-1
29-12-45

59466

THIRD ASST. SECRETARY TO GOVERNMENT
8 JAN 1946
DEVELOPMENT DEPARTMENT

E. & P. H. No. 42688-2 B.
2-1-46.

procedure laid down in the Madras Civil Services (Classification, Control and Appeal) Rules was followed will not deter the Court from coming to this conclusion. The Advocate-General is also of opinion that if a Government servant is dismissed without being furnished the findings of the enquiring officer and without being given an opportunity of showing cause against his dismissal, the order of dismissal would be held illegal by a Court and compensation or damages would be awarded to him. The Advocate-General has also advised that it is better and safer to reopen the matter in such cases and follow the procedure indicated by the Federal Court after reinstating the person in service as from the date of dismissal. It is understood from Development that in the case of the dismissal of Mr. Ajwani, District Veterinary Officer, the Government of India has been addressed as to the procedure to be followed in that and other similar cases. E. & P. H. may ascertain from Development whether any reply from the Government of India has been received and if a reply has been received, take such action as may be suggested by the Government of India.

B on p.2 ante. The rejection of the petition will not give a fresh starting point for limitation.

28/12/45 S 29.12.45 - E & P. H.

Development Dept. may be requested to state whether a reply has been received from the Govt of India to the reference made in the case of Mr. Ajwani referred to ^{at Aathu} and if so to put up a copy of the letter addressed to the Govt of India by the reply for reference.

28.12.45

31/12/45 S 1/1/46

Dev 4-1 sub.

Dev(P)

TO BS

With reference to B on p. 3 above

it is submitted that a reply from the Govt of India has not ^{yet} been received in Sri Ajwani's case. The file relating containing the reference ~~transmitted~~ ^{transmitted} to the Govt of India has been sent to Governor's Secretariat on 3.1.46 with a request to be informed as to whether India's reply has been received there. E & P.H. Dept may therefore be asked to renew their request a fortnight hence.

14.1.46. 5.1.46.

6/1/46.

SPH.

Dev. O. 866P/-1
6.1.46.



ETPH(S)

1087

May be over till 1.2.46

Attention is solicited to the portion marked B in the Legal Dept's note on page 3 ante. Pending decision as to the procedure to be followed in this case, it seems unnecessary to repeat the petition.

14.1.46

9/1/46

Development Dept. may now be requested to state whether the Govt. of India's reply in the case referred to at 'A' on p. 3 ante has since been received and if so to put up a copy of the letter addressed to the Govt. of India and of their reply for reference.

6/2/46

14.1.46

7/1/46

7/2/46

Dev.

Dev(P)

TO BS With reference to 'A' above, it is submitted that a reply from the Govt of India has not yet been received in Sri Ajwani's case. A copy of the letter addressed to the Govt of India from the Governor's Secretariat in Sri Ajwani's case is put up at (W). The file may be returned to E & P.H. Dept.



9172

ETPH. H. Dept (B)

Please see the Development Dept. note on p. 4 ante.

The Govt. of India's reply in Sri Ajwani's case referred to therein may be awaited till 1-3-46.

Attention is solicited to portion marked X on p. 2 of (W). It is perhaps unnecessary to reinstate the clerk in service pending receipt of the Govt of India's reply. Public (Ser) may perhaps be consulted on this point.

14.1.46

16/2/46

3

18/2/46

Pub. (Ser)

Pub (Ser) Dept

As Sri V. R. Janakirama Iyer has given a suit notice (the Lawyer's letter is dated 14th December 1945) it is not advisable to wait indefinitely to receive the reply from the Govt. of India. In Sri Ajwani's case dealt with in the Development Dept, which is more or less similar to this case, that dept cancelled the order removing Sri Ajwani from service, reinstated him and then kept him under suspension and also ordered a re-enquiry according to the new procedure. This was done after consulting the Advocate-General. If the Govt. of India's reply referred to above ~~has not been received~~ ^{is not} in a few days, E & P.H. Dept may obtain the papers relating to Sri Ajwani from Devt Dept and examine whether it is necessary to follow a similar course.

With these remarks the file may be returned to the E & P.H. Dept.

Pub. Ser. 383/46-1
23.2.46

21/2/46

22/2/46

23/2/46

A copy of the reply, recd. from the Govt. of India in Sri Ajwani's case and an

extract of the Public Dept.'s note in another ^{similar} disciplinary case are put up at "W"/3 & 4. As the G. of I. have ~~not~~ ^{not} proposed to reopen, as a result of the Federal Court's ruling in question, cases which have already been decided and as they have stated that the legal difficulty arising out of the ruling may be resolved in due course, it seems unnecessary to follow, in this case, the procedure advised by the Advocate-General and adopted in Mr. Ajwani's case. For orders whether the threatened suit may be awaited. (No action need be taken on the petition at C.F.1-2.) Legal may see for remarks.

Legal Department

The legal position is as clarified by the Advocate-General.

Until the Federal Court's decision is reversed, it should ordinarily guide the Government in determining the procedure to be adopted in cases like the present. The letter of the Government of India is not very helpful. The fact that they do not propose to reopen cases and revise orders which are illegal in view of the Federal Court's decision, cannot affect the legal position. The Government of India do not say that the question was raised in any specific case before them or that they definitely declined to re-examine the position in the light of the said decision, even when specifically requested to do so by an aggrieved Government servant or when such a Government servant had served a notice of suit on them. Stress is laid by the Government of India on the fact that special leave to appeal has been granted by the Privy Council and this suggests that they are hopeful that the Federal Court's decision will be set aside.

If any case comes before a Court now, it will be bound to

ASSISTANT SECRETARY

8 - MAR 1948

LEGAL DEPARTMENT.

1609C

follow the decision of the Federal Court and set aside the orders passed by the Government unless, before the case is heard, the Privy Council pronounces judgment, reversing the decision of the Federal Court. It is not possible to say what view the Privy Council will ultimately take or when it will pronounce its judgment. It cannot also be assumed that the Federal Court's decision will necessarily be set aside by the Privy Council. It would therefore be safer to reconsider cases of this kind in the light of the decision of the Federal Court in Lal's case.

But in this case, the person who has given the notice of suit was dismissed from Government service on 4-3-1938. The suit notice makes a claim for damages for wrongful dismissal. A sum of Rs. 7,444/- representing the salary which he would have drawn from 1-11-1937, the date when he was suspended from service, up to date is claimed. Eight years' salary as damages for wrongful dismissal will be far too excessive and is not likely to be awarded by any Court.

There is some uncertainty as regards the period of limitation for a suit of this kind. As the Government servant did not hold his office under a contract, Article 115 of the First Schedule to the Limitation Act which applies to a suit for compensation for the breach of any contract, will not govern this case. The suit may be held to fall either under Article 36 of that Schedule (for compensation for any malfeasance or misfeasance independent of contract and not herein provided for), or under Article 120 (suit for which no period of limitation is provided elsewhere). If the suit falls under Article 36, the period of limitation will be two years from the date of the wrongful dismissal. If it falls under Article 120, the period of limitation will be six years from the date of dismissal. Assuming that Article 120 is the relevant Article in this case, the suit should have been filed within six years from 4-3-1938, that is, before 4-3-1944. The claim

in the present case is thus barred by limitation. It is therefore unnecessary, in the present case, to set aside the order of dismissal with reference to the Federal Court's decision in Lall's case. The threatened suit may be awaited.

22/3/46 S

22-3-46

E PH

Legal no 16098-1
22-3-46

E. & P. H. Dept. (A)

No action is necessary in view of legal's note above. The threatened suit may be awaited; the papers may be -
G. O. (M.) No. 688 En. 1-4-46



Abstract:-
Letter - Sri V. R. Janakirama Ayyar, formerly clerk, office of the D.P.I. - Dismissal from service - Suit notice - Papers - Recorded

Recorded

16072

27-3-46
27-3-46

28/3/46 S/A1?
28/3/46 A1

To the D. P. I. ✓
(Wrt his Lett No 555 F/45)
d. 22-6-45)



29-4-46