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Education & P.H.Department (1946) Department.

Ms. SERIES.

G.O. No. 721 Edu

721

Dated 4 - 4- 1946

31

[Despatch Abstract.]

ESTABLISHMENT - Office of the Director of Public Instruction - Certain clerks - Emergency appointment - Petition against the Director's order - Orders passed.

Back Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	
G.O	359	Edn	10-3-45				
"	1129	"	17-8-30				
"	1064	"	9-7-41				
"	1594	"	17-12-22				
"	1922	PW	18-7-45				

Further Papers.

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

From

P.V.Ramanaiah, B.A.(Hons.),
Clerk, Office of the Director of
Public Instruction, Madras.

To

The Secretary to Government,
Education and Public Health Department,
Fort St. George, Madras.

22344

Through

The Director of Public Instruction,
Madras.

SECT. SECRETARY TO GOVERNMENT
18 MAY 1945
EDUCATIONAL DEPARTMENT

Sir,

Refce: Office Order No.52/45, dated 20-4-45
of the Director of Public Instruction.

I most humbly beg to submit this memorial petition to Government for favour of kind and sympathetic consideration.

2. I beg to represent to Government the grave injustice and material harm that the Director's Office Order No.52/45, dated 20-4-45 (copy submitted herewith - Enclosure I) has caused me. Government may kindly note that I am the worst affected of all by this order and may therefore kindly condescend to give patient hearing to my humble representation and earnest appeal.

3. The order (of 20-4-45) is painingly laconic; and so far I have not been able to know what "the Madras Provincial and Subordinate Rules" are. Unofficial enquiry has referred me to "the General Rules relating to the Madras Provincial and Subordinate services", for which the expression used in the order is perhaps an abbreviation.

4. With this elaboration of an abbreviation the order of 20-4-45 (Enclosure I) means to modify, and virtually cancel, an earlier office order No.110/44, dated 17-8-44 (copy submitted herewith - Enclosure II). It further means to treat the service I put in as an Upper Division Clerk till 31-3-45 as temporary service required of an emergency, which does not qualify for probation. This Order of 20-4-45, (Enclosure I) was to me like a bolt from the blue, which stupefied me with

tragic amazement. Most unexpected as it was, the order was so very singularly downright; it did not give the least indication of wherefore it had been served on me ~~and what had been served on me~~ and what had caused or necessitated the modification of the office order of 17-8-44 (Enclosure II).

P. 11 infra Ibid

5. The Office Order of 17-8-44 (Enclosure II) is the one which granted me (and three others) regular promotions to the Upper Division from the date (or dates) mentioned in it. Government may kindly note that there is nothing extra-ordinary or irregular about this order, at least in so far as it relates to my promotion. For, on the date of this order (i.e.17-8-44) I was fully qualified to merit the promotion it granted to me. So it could not be for any inherent defect that the office order of 17-8-44 (Enclosure II) was sought to be modified by the later order of 20-4-45 (Enclosure I).

6. The modification has therefore to be accounted for by external evidence. On 1-5-45, while going through the pay acquittance roll (which I did before signing against my name), I discovered that myself and the three others mentioned in the office order had been supplanted by two other clerks T.V.Venkatanarayana and S.A.Nadar, who, in the knowledge of all, were first promoted to the Upper Division from 1-4-45. We four of the office order had been promoted long before (i.e. in August 1944 and earlier), and how the two (Venkatanarayana and Nadar) that came (to be promoted) later could be made to supersede us is a wonder of wonders that perhaps this office only can explain. It may also be kindly noted that this sort of promotion by actual supersession of others already promoted appears however to be a new leaf in the annals of (the) promotion policy of this office. My experience and observation have revealed to me that promotions in this office have been going more by self-made policy than by strict adherence to rules and regulations made by the Government.

7. I do not co[illegible] much than the [illegible]

the kind leave
herebelow how the pr
from 1-4-45 are beset with a ri
validity is open to question.

8. The sudden seniority granted by t
narayana and Nadar even in their first promotio
over persons already promoted before them—is, I
a fine example of pure wizardry. Nadar came to this office in (4)
November 1943, and Venkatanarayana a few months earlier. At
the time of their entry into this office, both were confirmed
Lower Division Clerks. There was a wide interval more than sixteen
months between their entry into this office and their promotion.
One endeavours in vain to find, during this wide interval of
more than sixteen months, any change in the conditions and
circumstances that would affect the promotion of Venkatanarayana
and Nadar. In other words, these two clerks were as fit or
unfit, as fully qualified or otherwise for promotion to the
Upper Division on 1-4-45, as they were even when they first
entered this office, or, for that matter, as on any date in
between. This being so, the fact that they were first promoted
to the Upper Division only from 1-4-45 and not earlier, should
naturally and logically lead to the conclusion that they were
considered by the office (at least till 1-4-45) as undoubtedl
junior to all (including myself) who had been promoted alre
that is to say, earlier than Venkatanarayana and Nadar a
before 1-4-45. This can be proved by reductio ad absur
Taking the case otherwise, i.e. granting for the time
that the office did really consider them (Venkatanara
Nadar) as seniors to us (the four mentioned in the o
Then the inference is firstly that they two would
been promoted earlier than us. And secondly, if
technical difficulty or administrative inconveni

y of their regular promotion at once according ru... they would certainly have been given (prior to us) at least temporary promotion under emergency powers and continued so till their position was clarified which could not be imagined to take years or decades. In this second alternative probability, again, there could be no case for promoting others (instead of the two) temporarily under emergency powers, for the simple reason that the two were there on the spot and were needed not to be brought from elsewhere at state cost; and even if imagination is strained to conjure up extreme circumstances in which the two could not (in spite of seniority) be granted even temporary emergency promotion, the utmost probability and possibility would be that some others would be given temporary emergency promotion till the cases of the two were decided once for all -- but none could be expected to have regular promotion during that time. Now all these inferences flowing from the supposed seniority of Venkatanarayana and Nadar over us four mentioned in the office order, lie flat falsified by facts and by the office order No.110/44 dated 17-8-44 (Enclosure II). Thus it is more than crystal clear that till 1-4-45 this office had not the least thought or the faintest idea of any seniority of Venkatanarayana and Nadar over myself and the three others mentioned in the office order. Thus I beg to invite the kind attention of the Government to the fact that, till April 1945, the office did not consider Venkatanarayana and Nadar as seniors to us. Then how was the office all of a sudden pleased to consider the two as seniors to us from 1-4-45?

9. Another conundrum which seeks to protect the seniority given to Venkatanarayana and Nadar from intellectual criticism, is how among the clerks promoted to the Upper Division before 1-4-45 the place of Venkatanarayana and Nadar was fixed just exactly above the four (including myself) mentioned in the office order and just exactly below the others. For—Government may kindly note this—we four mentioned in the office order

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are not the only persons that were promoted after Venkatanarayana and Nadar had come to this office: in fact there are more. This fixation of seniority does not appear to conform to any prescribed or known datum or criterion for determination of seniority of clerks like myself. Nor has it any logical relation to facts. Thus, I beg to state, this fixation of the seniority of Venkatanarayana and Nadar appears at best to be purely arbitrary.

10. The fact that these two (Venkatanarayana and Nadar) alone were chosen for this irregular and anomalous seniority out of more who were obviously all similarly circumstanced, goes a good way to show how very partial the office was to the two.

11. Further, the senior-promotion given to Venkatanarayana and Nadar wove round itself a cocoon of inconsistency in the promotion policy of this office. To illustrate this point, I have to refer to an earlier case of quite a recent date. In July 1944, Balasubramaniam (the third mentioned in the office order) was promoted to the Upper Division. My promotion followed in August 1944. Then I contended his earlier promotion and claimed seniority over him. This office then seems to have justified its action in granting him seniority over me on the ground of his longer service and the earlier date of his first appointment in the service. On this very same ground Balasubramaniam became senior to two others, Hamid and Doraiswamy, and should have been promoted earlier than Hamid and Doraiswamy, which however was not the case; for Doraiswamy and Hamid were actually promoted earlier than Balasubramaniam. Doraiswami and Hamid were promoted earlier than May 1944. At the time of their promotions the office was perhaps not aware of Balasubramaniam's seniority over them. When Balasubramaniam came to ~~the~~ be promoted in July 1944, (i.e. next to Doraiswamy and Hamid and prior to myself), the office could no longer be ignorant of Balasubramaniam's seniority over Doraiswamy and Hamid. Otherwise my promotion would have preceded Balasubramaniam's. At that stage [illegible]

Doraiswami, Hamid and Balasubramaniam were all under emergency powers and had temporary effect, and the office could then have corrected the order of seniority by placing Balasubramaniam above Hamid and Doraiswami without any administrative inconvenience whatsoever -- the office could do so if only it wanted. But the fact is that the office did not so correct the order of seniority in July 1944, while it could do so without any inconvenience. That incorrect order of seniority continued till January, 1945, when Government asked this office to clarify the order of seniority as fixed in the office order No.110/44, dated 17/8/44 (Enclosure II). (Kindly see the Government Memo. of January, 1945, in the file closing with G.O.No.Ms.359, Edn., dated 10/3/45). Even then this office did not seem to be inclined to correct that order of seniority -- perhaps then it was a bit too late to do so. (That incorrect order continued right up to 20/4/45 the fateful date of the office order under reference.) I do not know exactly on what grounds the office justified (in reply to the Government Memo. mentioned above) to Government the retention and continuation of that incorrect order of seniority fixed in the office order of 17/8/44 (Enclose II). (For this kindly see this office's communication to Government which immediately preceded G.O.No.Ms.359, Edn., dated 10/3/45). This office might then have pleaded administrative inconvenience or hardship to Doraiswami and Hamid, or something else, as reason for not correcting that order of seniority (as fixed in the office order of 17/8/44 -- Enclosure II) and for retaining and continuing the same. But whatever that be, I fail to see why the same policy and course of action could not be adopted and applied in the present case, i.e. Venkatanarayana and Nadar Vs. Doraiswami, Hamid, Balasubramaniam and myself. The two cases (viz.(1) Doraiswami and Hamid Vs. Balasubramaniam, and (2) Venkatanarayana and Nadar Vs. Doraiswami, Hamid, Balasubramaniam and myself)-- these two cases, it may kindly be noted, are exactly similar

P. 11 infra
pp. 22-23 of (J)
P. 20 of 7.04 (J)
pp. 22-23 of (J)
P. 11 infra
P. 25 of 7.04 (J)
P. 20 of 7.04 (J)
P. 11 infra

Balasubramaniam's seniority over Doraiswami and Hamid was recognized for the first time after Doraiswami and Hamid had both been promoted. Similarly, the seniority of Venkatanarayana and Nadar over us four was recognized for the first time only after we four had all been regularly promoted. In such similar circumstances, when Balasubramaniam (in the former case) was promoted only next in order to Doraiswami and Hamid and not by superseding them, why Venkatanarayana and Nadar (in the latter case) could not similarly be promoted next in order to us four and not necessarily by superseding us, is not clear to understand. It obviously is a change of colour in the promotion policy of this office -- necessitated not by circumstances but obviously by personal prejudices. Government may kindly note how very incriminating this discrimination between person and person is. It may also kindly be noted in this connection that , by implication in G.O.No.Ms.359, Edn., dated 10-3-45, this office's argument for and justification of the order of seniority (viz. Doraiswamy, then Hamid, and then Balasubramaniam) in the case of Doraiswami and Hamid Vs. Balasubramaniam was virtually approved by the Govt. in the circumstances, or at least it commended itself to Government satisfactorily. The office, within a very short time, diagonally digressed from this policy. And this digression gave rise to inconsistency in the policy. Government may kindly note that such frequent digressions from and changes of policy ever and anon are very harmful to the interests of staff like us, and will destroy the feeling of security among us which is our due under the rules and which is so very desirable and necessary in the interests of efficient public service. I may kindly be pardoned for this utterance, for this is the plaint of an affected person whose injury is green and fresh.

12. Venkatanarayana and Nadar might have their grievances that they were not promoted as soon as they entered this office, or at least earlier than we four. (Let it only be supposed so

for the time being, for the probability and possibility are otherwise as shown in paras 13 and 15 below). But, for their grievances, we were not responsible. We -- at least myself did not want the office to deliberately promote me earlier than my real seniors. If, however, Venkatanarayana and Nadar were my seniors and if I (as well as the three others) was promoted earlier than them, it was done solely on the responsibility of the office and might perhaps be a mistake on its part. But the office did not best correct the mistake by penalizing us for no fault or offence of ours. Why should the office entice us for an illusory pleasure voyage into the mid ocean and there treacherously torpedo our vessel from underneath? This is no justice or equity according to the judicial standards of any civilized country. Venkatanarayana and Nadar might have suffered (let it, again, be supposed so). So also Balasubramaniam did in the previous case. While Balasubramaniam's suffering (for loss of seniority over Doraiswamy and Hamid) could not make the office push him up above Doraiswami and Hamid, what special merit or consideration could Venkatanarayana and Nadar have in order to be pushed up above myself and the three mentioned in the office Order? None, none at all.

13. There is another aspect of the matter. Government may kindly note this also. Recently (either in March or in April '45) the office obtained from Venkatanarayana and Nadar what purported to be a voluntary written declaration to the effect that they were quite willing to take their rank in this office with reference to the dates of their joining this office. If this declaration has any meaning or effect, it is clear that they (Venkatanarayana and Nadar) are juniors to me and the three others mentioned in the office order; for we four joined this office and started service as clerks much earlier than Venkatanarayana and Nadar came to this office. In proffering them the irregular seniority which they had voluntarily relinquished in their declaration, the office has only shown itself

out as unduly partial to them and in consequence as unduly prejudiced against us.

P.13 infra Ibid 14. Till the office order No.52/45, dated 20/4/45 modified the office order No.110/44, dated 17/8/44 (Enclosures I & II), I was enjoying security and surety of a particular fixed place among the officiating Upper Division Clerks. Since I am now deprived of my regular promotion, not only have I lost some service which would have counted for Upper Division probation, but there is no surety now that I will hereafter be promoted just next in order to Doraiswami, Hamid and Balasubramaniam. Many others may interpose between each two of us. I being the junior most of us four, it may not be for some long time to come that I can have promotion again. Thus, I beg to request the Government to be pleased to recognise the grave hardship Ibid and harm that the Office Order No.52/45, dated 20/4/45 (Enclosure I) has caused me.

15. Winding up my humble representation, I beg to suggest a way (out) of the trouble. This is nothing else than (the) immediate Ibid cancellation of the Office Order No.52/45, dated 20/4/45 and (the) promotion of Venkatanarayana and Nadar next in order to myself who am the junior most of the clerks promoted to the Upper Division before 1/4/45. This course of action has certain very decided advantages over what the office has done. Firstly, it will not give rise to all the anomalies, irregularities and other objections pointed above. Secondly, it would not cause hardship to persons (like me) already promoted. Thirdly, it would be consistent with the policy which had been pursued by the office hitherto and which has once commended itself satisfactorily to Government. Fourthly, and lastly, it would squarely agree with the voluntary declaration given by Venkatanarayana and Nadar (vide para 13 above) and thus would not give them ground for any real grievance -- for, what grievance can they have for not having that which they have voluntarily relinquished? I request that Government may kindly consider the merits and advantages of the course of

action suggested above, and may kindly advise our office to do accordingly. If for any reason the above course of action is not agreeable to the office, then the only other equitable alternative left under the circumstances is to throw the entire seniority list of all the staff into the melting-pot and re-shape it, as with effect from as early a date as possible, in strict accordance with rules, for no piece-meal patch-work will suffice. Government may kindly go into details and satisfy themselves with the need for this.

16. I am not unaware of the trouble that I may be causing to Government, but is this not the trouble, Sir, that a parent has, sometimes to take in the interests of his child?

17. I thank the Government very much for the patient hearing given to this earnest representation, and hope that my request will kindly be granted.

I beg to remain,
Sir,
Your most obedient servant,

M A D R A S,
9th May 1945.

Copy submitted direct to save delay.

[For enclosures please turn over.

E. & P.H.(B).

The receipt of the original submitted through the D.P.I. may be awaited till 1-7-'45.

19/5/45.

19/5/45

24.5.45

Enclosures.

I

True Copy of the Office Order No.52/45, dated 20th April 1945.

Office Establishment -- Promotion of clerks to the Upper Division.

Read: Office Order No.110/44 dated 17-8-44.

In modification of proceedings read above, Messrs.M.R. Doraiswami, C.Abdul Hamid, N.Balasubramaniam and P.V.Ramanaiah will be considered to have officiated in the Upper Division vacancies that arose before 31-3-45 under Rule 31 of the Madras Provincial and Subordinate Rules.

(Sd). Muhammad.
20-4-45.
For Director of Public Instruction.

II

True Copy of the Office Order No.110/44 dated 17th August 1944.

Office Establishment : Officiating promotions -- Clerks (Upper Division) -- Office of the Director of Public Instruction, Madras.

The Deputy Director of Public Instruction (personnel) is pleased to regularise the emergency appointments to Upper Division of the following clerks with effect from the dates noted against their names.

	1. Sri M.R.Doraiswami	From	12-6-44
	2. Mr.Abdul Hamid	"	22-6-44
	3. Sri N.Balasubramanian	"	12-7-44
and	4. Sri P.V.Ramanaiah	"	10-8-44.

(Sd) P.Bhadriah.
Deputy Director of Public Instruction
(Personnel).

B

12

Office of the Director of Public Instruction, Madras, Dated the 19th M a y 1 9 4 5.

To

The Secretary to Government,

Education and Public Health Department,

Fort St. George, M a d r a s.

22774

Through

The Director of Public Instruction,

M a d r a s.

Sir,

P.11 ante

DIRECTOR'S Office Order No.52/45 dated 20-5-1945 treating Service in the Upper Division Post from 12-6-1944 as Service Under Rule 31 of the General Rules relating to the Madras Provincial and Subordinate Service Rules - Appeal for revision of the Orders- S u b m i t t i n g.

P.20009 M.S.M.-Vol.I. Book No.112

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I most respectfully beg to submit the following for your kind consideration and revision of the above orders.

At the very outset, I beg you, Sir, to forbear my saying here certain facts which will greatly help the understanding of my case in its true perspective.

I am an Officiating Clerk in the Office of the Director of Public Instruction. I was entertained in this Office as a Lower Division Clerk in September 1939 on the recommendation of the Collector of Madras from the list of candidates selected for appointment by the Madras Public Service Commission. I have been working in this Office ever since that time. After my entry into this Office, many a clerk from subordinate offices of this department, were taken into this Office on transfer, all of them being my seniors by date of their first appointment. I and other officiating clerks in the Director's Office made many representations both written and oral to the Deputy Director of Public Instruction (Personnel), how this policy of bringing clerks on transfer from other offices affects gravely our future prospects in the Office. We also brought to his kind notice, the Commission's Notification in which they requested all appointing authorities to discourage the practice of taking on transfer clerks from one Government Office to another for the Commission stated, there were many

protests from the Service Commission Candidates' against such transfers as they are detrimental to their prospects. The Deputy Director of P-ublic Instruction (Personnel) was kind enough to assure us, on more than one occasion, when we, the Officiating Clerks, saw him on deputation, that he would safe-guard our interests and see that our prospects to which we are sanguinely expectant are not spoiled by these clerks taken on transfer to this Office subsequent to our entry into this Office, and that, he as appointing authority, would bestow parental care on us. True to his words, he made it a policy that the total service in the Director's Office should be taken into account and promotion should be given to these clerks who are seniormost by date of their appointment in this Office.

Quite in keeping with the policy stated above, he gave preferential treat-ment in the matter of giving promotion to Upper Division posts whenever vacancies occurred to such clerks as have put in greater period of service in the Direcotr's Office and thus eliminated the sense of fear and insecurity which I and others had at the beginning. As we have fully satisfied the Deputy Director of Public Instruction (Personnel) by our work and conduct, he gave promotion to such of us as were qualified in one or the other of the tests prescribed in Rule 32 of the Madras Minsiterial Service under emergency powers in preference to fully qualified people who came from the subordinate offices in order to give us a fair chance to get ourselves qualified in the next earliest examination and on our fully qualifying themselves for the Upper Division posts, our emergency promotions were regularised from the date on which we became fully qualified to hold the posts. The reason for adopting such a procedure was nothing more than that it was fair and equitable. The following are the gentlemen to have been so promoted to Upper Division Posts and whose promotions were regularised on their fully qualifying themselves - Messrs (1) C.P. Raghava Rao Naidu (2) V. Ramaswamy (3) M.P. Ramaprabhu, (4) M. Radhakrishnan and (5) N. Narayana Nair. All these clerks fully justified the confidence of the Deputy Director of Public Instruction (Personnel) by passing the tests held immediately after their promotion and getting themselves fully qualified to hold the Upper Division Posts. Here begins my case. I passed the Accounts Test for Subordinate Officers in December 1943, and I was

promoted to Upper Division under emergency powers like those before me. I appeared for the Deputy Inspectors' Test in June 1944 and came out successful and with reference to the Service Rules, my promotion was regularised with effect from 12-6-1944, the day on which I became fully qualified for the post. Three more clerks were likewise promoted after me and their promotion was also regularised. Please see Office Order No.110/44 dated 17-8-1944 (copy enclosed).

Sri S. Arumuga Nadar, Permanent Clerk, Office of the Inspectress of Girls' Schools, Fourth Circle, Madura was brought on his own request on transfer to this Office in November 1943. In August 1944, he put in an appeal protesting against my promotion under Emergency Powers made in February 1944 on the ground that as he is fully qualified for promotion he should have been promoted, instead of me. His appeal has been upheld by the Director and by the order quoted above (against which this appeal is preferred) my promotion to Upper Division Post was declared to have been made under Rule 31 of the General Rules relating to the Madras Provincial Subordinate Services Rules (copy of the Director's Office Order No.52/45 dated 10-4-1945 is enclosed) which amounts to the cancellation of my promotion.

I saw the Deputy Director of Public Instruction (Personnel) and requested him to enlighten me on the points on which the appeal of Sri S. Arumuga Nadar against my promotion has been upheld by the Director. He was kind enough to tell me as follows:--

"Upheld for the reason that promotion of partially qualified people to Upper Division Posts even under emergency powers when qualified people were available is irregular. Therefore, had the provisions of the Statutory Rules been completely complied with, Sri Arumuga Nadar would have been promoted on the dates when the vacancies occurred."

On the above premise, presumably, Sri S. Arumuga Nadar and Sri T. Venkatanarayana, another clerk brought from the Office of the Inspectress of European Schools, Madras were promoted over me from 1-4-1945. This fact, I gathered from the Pay Acquittance Rolls for April 1945.

I beg you, Sir, to consider whether the above contention is itself tenable and justifiable from the facts mentioned below:--

Sri S. Arumuga Nadar joined duty in this Office round about middle of November 1943. Vacancies in the Upper Division posts occurred in February 1944 when I was promoted under emergency powers. It would appear that since he was then very recently brought from Rs.30-55 scale to Rs.37-70 scale (which in itself is a promotion) and since he had put in by then barely three months of service in this Office, his case was not considered for promotion at all at that time presumably in view of the fact that his service in this Office was too short to deserve consideration for promotion over clerks like me who have put in sufficiently long period of service and whose case, as had been with those promoted, before me, deserved first consideration. That was the position at the time when promotions were given to me and three others, under emergency powers and all of us got ourselves fully qualified for the posts by passing the Deputy Inspectors' Test held in June 1944 and our promotions were regularised with effect from the dates mentioned in the Office Order No.110/44 dated 17-8-1944.

I do not see any irregularity in the Order regularising my promotion for I was given regular promotion from the date on which I became fully qualified to hold the post and because I was the seniormost of the Officiating Clerks awaiting promotion. I may mention here that Messrs T. Venkatanarayana and S. Arumuga Nadar have given a declaration in writing under Rule 37 of the General Rules relating to the Madras Provincial Subordinate Services Rules that they relinquished their right of seniority by taking the rank from the dates on which they joined duty in this Office and by this declaration they occupy 31st and 32nd rank respectively among the 36 officiating clerks while I occupy the 6th rank in the list of Seniority of the Officiating Lower Division Clerks maintained in this Office. The possibilities of their being reverted to their permanent appointments when vacancies cease to exist in the Lower Division, therefore, are not limited.

I am extremely unfortunate that the Director should admit the claims of the clerks and promote them over me on the ground that had the provisions of the Statutory Rules been strictly complied with, these

clerks (namely Messrs T. Venkatanarayana and S. Arumuga Nadar) would have been promoted before me without taking into account all the circumstances of the case. Against that contention, I would again submit the cases of promotion which were made immediately before mine. Sri T. Venkatanarayana was here when Messrs M.P. Ramaprabhu, M. Radhakrishnan and N. Narayana Nair were promoted under emergency powers and later their promotions were regularised like mine. Therefore, he should have been promoted before them too as per the accepted contention of the Director. He did not protest then nor did he now against my promotion. It would appear that he was promoted just to justify the promotion of Mr. S. Arumuga Nadar, who has no other claim except that of technical objection to my promotion under emergency powers which the Director seems to have accepted as correct. I may respectfully point out that "Emergency Promotion" cannot be characterised as irregular or regular nor can it be anything else than "Emergency"; and no appeal against such promotion lies. Secondly, my regular promotion from 12-6-1944 is perfectly in order and neither Sri S. Arumuga Nadar nor Sri T. Venkatanarayana have any right to protest against my promotion on the ground of seniority having themselves relinquished their right of seniority in writing.

To say that these two clerks would have been promoted, had the Rules been strictly observed and therefore should be given seniority in the Upper Division should not be confined to mine alone. It should also be applied to all cases of promotions done hitherto e.g., Messrs C.P. Raghava Rao Naidu and V. Ramaswamy should be reduced in rank and the qualified people then available for promotion namely Messrs T.E. Srinivasan, C.R. Sivaramakrishnan and K.E.S. Sambandamurthi should go over them. Mr. T. Venkatanarayana now promoted should go over Messrs M.P. Ramaprabhu, M. Radhakrishnan and N. Narayana Nair and S. Arumuga Nadar not only over me but also over Messrs M. Radhakrishnan and N. Narayana Nair for at the time he was brought here, they were officiating as Upper Division Clerks under Emergency Powers. Strictly in accordance with the Rules, their promotion should have been cancelled and Sri S. Arumuga Nadar should have been given promotion over them also for there was no justification (it follows from the contention accepted by

the Director) to continue the emergency promotion when there was actually a man fully qualified to hold the post. I am stating here all these things because I want to place before you how the premise, formed on a very fundamental mistake of firstly upholding "a claim" for promotion (for promotions cannot be claimed as a matter of right) and secondly accepting without reservation that promotion of partially qualified people under Emergency Powers when qualified people are available is irregular when there are reasons for justifying such promotions, cannot but be held untenable. I may mention here that the policy of giving emergency promotion to Upper Division to partially qualified people was hitherto followed in order to give them a fair chance to get themselves fully qualified for the post in the next examination to be held on the following considerations:--

(1) That Clerks in the Director's Office have better claim for promotion on account of the fact that they have been doing more onerous and responsible duties entrusted to them to the entire satisfaction of their superiors.

(2) The work in the Director's Office is held to be far superior in character to that in the subordinate offices and therefore Clerks having more experience in the Director's Office have better claims for promotion to Upper Division than those who were brought from Subordinate Offices and whose work in the Director's Office has not been of sufficiently long period to merit consideration for promotion over those already in the Office even though the transferred clerks are fully qualified for promotion by virtue of their having passed the two departmental tests, and

(3) It is held that this transfer from Subordinate Offices to the Director's Office is itself a promotion since they have been brought from a lower scale of pay to a higher scale of pay and therefore they should await their promotion only after the officiating clerks like me.

In conclusion, I beg leave to sum up my case as follows:--

I was promoted under Emergency Powers in February 1944. My Emergency promotion lasted upto 12-6-1944 on which date I became fully qualified to hold the post and I was given regular promotion only from that date.

2. To say that my Emergency Promotion was irregular and to cancel my regular promotion is itself irregular for, the cancellation should have been done during the period of my Emergency appointment lasted. This was not done at that time for the reasons already stated. To say that I have been considered to have officiated under Rule 31 of the General Rules relating to Madras Provincial and Subordinate Services Rules

cannot be accepted as correct for at the time the Office Order No.52/45 dated 10-4-1945 was issued, I was fully qualified and entitled to hold the post of the Upper Division Clerk in this Office. To put it in other words my Emergency Promotion has been held to be irregular when there are no reasons to consider it so and my regular promotion is treated as emergency promotion when there is no justification to treat it so.

3. I became fully eligible and qualified for promotion from 12-6-1944. I have been officiating in the Upper Division since that date. I was assigned a particular work which carried with it the Officiating Allowance. A Certificate to this effect was furnished while claiming my pay. It is, therefore, sheer injustice to deprive me of the regular service I rendered in the Upper Division by cancelling the previous orders of my promotion.

4. Since the two junior clerks promoted over me have not officiated in the Upper Division before in any manner, and since the promotion given to me has been cancelled, it is an unquestionable fact that all of us stood on the same level on 1-4-1945 with regard to qualification and eligibility and the only deciding factor in the matter of promotion was seniority. Therefore I as the seniormost of the officiating clerks should have been assigned first rank amongst those promoted on 1-4-1945, and

5. If the Director thought that the procedure hitherto followed required modification or change, I beg to submit that in all fairness the change should have been effected without causing any hardships to the clerks who have already been promoted by him before and if he thought of cancelling the previous promotions, he should have scraped the entire promotions made hitherto with reference to the contention which he accepted as correct. I submit that I see no fairness in discriminating only the four of us in this matter.

And finally I most respectfully beg to state here that I was given promotion in consideration of my long and satisfactory work in the Office. To deprive me my legitimate rank on quite unjustifiable grounds is really an injustice done to me for which I pray for redress. I may mention here that I lost over 9 months of service in the Upper

19 - 8 -

Division from 12-6-1944. I, therefore, pray for the intervention of the BENIGN GOVERNMENT on my behalf, a humble and faithful servant of theirs for restoration of my service from 12-6-1944 to 31-3-1945 and my status quo in the ~~Ex~~ Upper Division.

I beg to remain,

S i r,

Your most obedient servant,

19.5.45

Clerk, Office of the Director of Public Instruction, Madras.

Copy submitted to Government direct to save delay.

- - - -

E. & P.H.(B).

The receipt of the original submitted through the D. P. I. may be awaited till 1-7-45.

22/5/45.

25.5.45

28/5/45

Same as on page 16 ante (17)

20

Copy of the Office Order No.110/44 dated 17--8--1944.

OFFICE ESTABLISHMENT - Officiating Promotions - Clerks - Upper Division - Office of the Director of Public Instruction, Madras.

The Deputy Director of Public Instruction (Personnel) is pleased to regularise the emergency appointments to Upper Division of the following clerks with effect from the dates noted against their names.

(1) Sri M. R. Doraiswamy	...from...	12--6--1944.
(2) Mr. C. Abdul Hamid	... " ...	22--6--1944.
(3) Sri N. Balasubramaniam	... " ...	12--7--1944. &
(4) Sri P.V. Ramanaiah	... " ...	10--8--1944.

Sd. P. BHADRIAH,
Deputy Director of Public Instruction,
(Personnel).

Copy of the Office Order No.52/45 dated 20--4--1945.

OFFICE ESTABLISHMENT - Promotion of Clerks to the Upper Division -

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READ:-- Office Order No.110/44 dated 17-8-1944.

In modification of Proceedings read above, Messrs M.R. Doraiswamy, C. Abdul Hamid, N. Balasubramaniam and Sri P.V. Ramanaiah will be considered to have officiated in the Upper Division Vacancies that arose before 31-3-1945 under Rule 31 of the Madras Provincial and Subordinate Rules.

MUHAMMAD,
For Director of Public Instruction.

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2 3

C 208 F/45 21

(12)

Madras,
Dated 21st May 1945.

From
Md. Abdul Hamid, C
Clerk, Office of the Director of Public Instruction, Madras.

To
The Secretary to Government,
Education & Public Health Department,
Fort St. George, Madras.

Through
The Director of Public Instruction, Madras.

Sir,

Subject:- Promotion to Upper Division and subsequent cancellation - refixation of rank below juniors - appeal against orders of Director of Public Instruction.

...

I humbly beg to submit the following humble appeal against the orders of the Director of Public Instruction cancelling my promotion to Upper-division and fixing my rank in that category below my two juniors and request that you will be pleased to consider it sympathetically and pass your favourable orders thereon.

I am a permanent attender of the office of the Director of Public Instruction, Madras, since July 1936. On passing the S.S.L.C. examination in 1940 I was promoted as clerk in this office with effect from 27th June 1940 and satisfactorily completed the probation on 7th August 1942. I passed the Account Test - Part I in June 1943. In July 1943, 3 clerks were deputed for L.T. training at Teachers' College, Saidapet, from this office. As there were no candidates available in the list furnished by the Madras Public Services Commission for appointment as clerks in the Ministerial Service as substitutes in their places, the vacancies caused by their deputation were filled up by appointments made by transfer from the subordinate offices under the administrative control of the Director of Public Instruction. As the result, the following clerks stepped into this office:- S. Arumuganadar, Mahalinga Pillai and Sarangappani. All the above mentioned clerks gave undertakings in writing that they would take the rank from the date of appointment in this ~~department~~ office visavis other clerks in the ~~department~~ office.

On 5th January 1944, 2 vacancies in the post of Upper Division arose. According to seniority in lower division, Sir Maveral Statham,

was pleased to promote me as well as my immediate junior V.D. Chelliah to upper division under the emergency provision, the intention being that both of us who were not at that time fully qualified to hold the post should have an early opportunity to pass the test prescribed for the post and thus become eligible for regular promotion immediately on passing the said test. In June 44, I passed the Deputy Inspector's Test and my promotion was regularised from 22-6-44. On 17th August 1944, S. Arumuganadar appealed against my promotion on the only ground that he was fully qualified for upper division and that the promotion conferred on me under emergency provision was irregular and that therefore he should have been promoted prior to me. I have put in a total officiating service of 9 months on probation from 22-6-44 to 31-3-45 in Upper Division as my probation was regularised with effect from 22-6-44. From 5th January to August 44 I officiated in one of the 11 seats, the duties of which were considered to be more ~~owners~~ onerous and more responsible than those attached to other posts in the same category. Many clerks of this office were given promotion under emergency provision with one test ~~and~~ subsequently on passing the remaining test their promotions were regularised. The same procedure was followed in my case when promotion was made both under the emergency provision and under regular rules. On the appeal ~~against~~ of Arumuga nadar, my promotion was reversed and he as well as T. Venkata Narayana who was also appointed by transfer in this office were promoted over me. Their ranks in upper division were fixed above me though they were promoted only after I had officiated in upper division under emergency provision from 5th January 44 to June 1944 and also under regular rules on probation from 22-6-44 to 31-3-45. The only ground held out to justify the step taken to cancel my promotion and to refix my rank in upper division below S. Arumuganadar and T. Venkatanarayana was that both of them were fully qualified to hold upper division post at the time of my promotion to upper division by emergency power as well as under regular rules.

In this connection, I only wish ~~you~~ to invite the attention of Government to the fact that S. Arumuga Nadar gave a specific undertaking in writing that he would take his ~~gr~~ rank in lower division below all those who ~~are~~ were in this Office. Consequently his rank in lower-division was 32 and that of mine was thirteen. If S. Arumuga Nadar contends that he was denied ~~from~~ promotion at the time of my promotion on ground of seniority, I submit that his claim is untenable. If on the other hand he contends that he should have been promoted over me on ground of having passed the prescribed test earlier than me, I again respectfully submit that even in this case his claim is in consistent with the rules under rule 30 b (i) of the gneral rules of the Provincial and Suboridnate Services, promition to a selection grade or category shall be made on grounds of merit and ability, seniority being considered where merit and ability are approximately equal.

P. 1990 of I S M-Vol. I- Book No 112

Under rule 4 of the Madras Ministerial Service Rules promotion to a higher category from a lower category is admissible. Upper Division posts in the Director's Office fall under selection category and consequently ~~max~~ my promotion to this category was in accordance with the provision of this rule. Again the fact that Sri. S. Arumuga Nadar was senior to me in total service ~~or~~ are that at the time of my promotion he was fully qualified by virtue of his having passed the tests earlier does not confer on him any legitimate right to claim promotion for under rule 30 b (i) of the General Rules for Provincial and Subordinate Services, promotion to a selection grade or category is admissible only on grounds of merit and ability, senirioty of course, being considered when merit and ability ~~and~~ are approximately equal. The fact that he passed the prescribed test earlier than me and that consequently, he should have been promoted before I was promoted does not constitute merit, and ability as defined in the above rule, for a pass in a test or tests renders an individual only to become eligible to certain appointment but does not confer a right to claim appointment or promotion unless the appointing authority

P. 2596 of I S M-Vol. III. Book No. 114. Rule 5 on page 2590 and item 4 under Edn. Dept. on page 2580 of I S M-Vol. III Book No. 114.

P. 1990 of I S M-Vol. I- Book No. 112

concerned feels that an individual possess the merit and ability required to discharge the duties of the post. When I was promoted to upper-division under emergency provision it was apparent that the appointing authority considered me to posses the merit and ability required for the work. It is clear that the emergency provision made in my case in the first instance did not confer on me any right to claim the probationery rights of the appointment. My subsequent promotion under regular rules on passing the required tests conferred on me probationery rights of the appointment in the category of Upperdivision clerks and from June 22-6-'44 to 31-3-'45 I have been a probationer in that category. The probation once started can either be terminated or extended but cannot under any provision of the rules be reversed except as a penalty or punishment. I respectfully submit that there was neither termination or extension of probation in my case but altogether quite a new procedure conterary to rules has been adopted to promote S. Arumuga Nadar over me by cancelling my appointment made to upper-division from 22-6-'44 and refixing my rank in that category below S, Arumuga Nadar and T. Venkatanarayana only on the grounds that at the time of my promotion they were fully qualified but were not then promoted. It may be remembered in this connection that Sir. Meveral Statham appointed me to the Upper-division as Arumuga Nadar and T. Venkatanarayana gave in writing an undertaking that they will not claim seniority over me and others as a condition for appointment in this Office. Such appointment from a 'B' to 'A' class Office was itself a promotion. If Arumuga Nadar and T. Venkatanarayana were really found fit subsequently for promotion to upperdivision it is but naturally that their claims for promotion should be complied with but under no circumstances can they take their rank over me and M.R. Doraiswami, for we had started the probation earlier in that category and also on 1-4-'45 when the orders in his appeal was passed, we were both senior and fully qualified to hold the appointment in upperdivision.

In the light of the facts presented and the developments narrated I most respectfully submit that as a result of the cancellation of promotion and refixation of my rank in upperdivision, grave injustice has been done to me and I request that Government may be pleased to restore my promotion from 22-6-1944 and fix my rank in the category of upperdivision clerks from that date.

I beg to remain,

Sir,

Your most obedient servant,

24-5-45

/Clerk, Office of the Director of Public Instruction/

Office of the Director of
Public Instruction, Madras.

R.C.No.201 F/45 dated 15-6-1945.

Sub: Petitions from Messrs. P.V.Ramanaiah, M.R. Doraiswami and C. Abdul Hamid, Officiating Clerks, Office of the Director of Public Instruction, Madras - Submitting.

Submitted.

2. The Petition from Mr. C. Abdul Hamid alone is submitted as the others have already submitted a copy of their petition direct to Government.

3. Messrs. M.R.Doraiswami and P.V.Ramanaiah, the petitioners are candidates selected by the Madras Public Services Commission for appointment in this Office. They were appointed in the Office on 11-9-1939 and 2-6-1941 respectively. They are still officiating clerks and have completed their probation as lower division clerks. Mr. C. Abdul Hamid is a permanent attender in the Office and was first promoted as clerk on 27-6-1940. He has also completed his probation as Clerk. These clerks have submitted petitions against the orders of the Director contained in this Office Order No.52/45 dated 20-4-1945, a copy of which has been enclosed by the petitioners. The circumstances in which this order came to be issued are detailed below:

In the year 1944 certain vacancies arose in the Upper Division and these clerks were promoted to the vacancies. These promotions were, however, made under the emergency rule because they had then passed only one of the tests prescribed for promotion to the Upper Division. Later, when they passed the other test in the June Examination of 1944, the promotions were regularised in the Office Order No.110/44 dated 17-8-1944 (copy enclosed by the petitioners). On 17-8-1944, Sri S.Arumuga Nadar, a permanent clerk of the office of the Inspectress of Girls Schools, Fourth Circle who was transferred to this office on 10-11-1943, submitted a petition against the promotion of these petitioners to the Upper Division, stating that the promotion of semi-qualified clerks to the Upper Division when fully qualified clerks like himself were available was irregular and requested that he may be promoted to the Upper Division in the place of the unqualified clerks. After going through the matter it was found that a mistake had been made and that Messrs. S. Arumuga Nadar and T.V.Venkatanarayanan, two clerks transferred from the subordinate offices who were fully qualified for promotion had been superseded by unqualified clerks, viz., the petitioners and that the two clerks in view of their satisfactory work had every right to claim promotion in preference to the petitioners who were only partially qualified at the time the vacancies arose. So, to remedy the irregularity that had been made, the promotions of the four clerks mentioned in Office Order No.110/44 dated 17-8-1944 were modified and the petitioners were in Office Order No.52/45 dated 20-4-1945 considered to have officiated in the Upper division under the emergency rule till 31-3-45, so that Messrs. T.V.Venkatanarayanan and S.Arumuga Nadar who were fully qualified at the time the vacancies had originally arisen and into which they should have been appointed instead of the four clerks may get the seniority they deserved in the Upper Division.

4. As the petitioners mention, it is no doubt true that the clerks who were transferred from the subordinate offices gave an undertaking in writing under General Rule 37 relinquishing their rights of seniority and expressing their willingness to have their seniority fixed in the Office with reference to their date of transfer to this office. This undertaking has no bearing on the promotion of clerks to the Upper Division as it is intended to fix the seniority of these clerks in the lower division alone.

p.t.o.

27

5. It is also true that in the past some clerks were first promoted to the Upper Division under the emergency rule in circumstances similar to those in which the petitioners were promoted. In such cases the clerks so superseded had recently been transferred from the subordinate offices and they, due to their short experience of the work in the Director's Office could not be expected to do work as efficiently as the clerks so promoted who had put in longer service in the office. None of the clerks so superseded felt aggrieved because none of them had sent any petition in this regard. In any case, such promotions cannot be made into a precedent for superseding fully qualified clerks by partially qualified clerks in the matter of promotion to the Upper Division.

p24 ante

6. The petitioner Mr. C. Abdul Hamid contends that from the date he was appointed regularly to the Upper Division Viz., 22-6-1944, he began his probation in the Upper Division and therefore under the Rules his probation cannot be reversed except as penalty or punishment. Against this may be added the fact that in this Office there is no probation for a lower division clerk promoted to the Upper Division.

Y

B an p18 ante

7. For the reasons stated above, the clerks' petitions do not deserve any consideration.

Muhammad
16.6.45

for Director of Public Instruction.

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

k.h.16-6.

Sd 16/6

28

(22)

22/10.9 22/4

EdPH (B)

Establishment - Office of the D.P.I. - Messrs P.V. Ramaniah M.R. Doraiswami & C. Abdul Hamid - Officiating clerk - Petition against Director's order declaring their appointment to the upper Dvn. prior to 1.4.45 as emergency appt

G.O. 27130/45.

From the DPI Rc. no 201 F/45 dated 15.6.45

Memo. No. 22344-2B. Edn., dated, 20-10-45.

Messrs M.R. Doraiswami & C. Abdul Hamid have stated in their petitions that they were acting in upper Division clerks' posts in respect of which declarations under F.R. 30 have been issued. The DPI is requested to state whether the statement is correct and if so, whether they should not be treated as probationers in the category of

Ah 27/10/45

2 29

upper division clerks with reference to rule 34(a)(ii)(3) p.273 ... No 114
of the Madras Ministerial Service Rules read with rule 30(c) p199 ... No 112
of the general rules for Provincial & Subordinate Services.
He is requested to explain more fully the statement in
para 6 of his letter that in his office there is no probation Y on p 274
for a lower division clerk promoted to the upper Div.

2. The Director is also requested to say whether the post
of upper Div. clerk in which Sri P.V. Ramaniah was officiating
is one in respect of which a declaration under FR.30
has been issued

BM 19/10/45

[initials] 17.10.45

Despd KM 23-10-45 To The DPI

30 B (23)

R.C.No.201 F/45. Office of the Director of Public Instruction, Madras, dated 6-12-45.

From

Dr. S.R.U.Savoor, M.A., D.Sc., I.E.S.
Director of Public Instruction, Madras.

ASST. SECRETARY TO GOVERNMENT
1 0 DEC 1945
EDUCATION AND PUBLIC HEALTH DEPT.

To

The Secretary to Government,
Education & Public Health Department, Madras.

Sir,

Sub: Office of the Director of Public Instruction - Petition from Messrs. P.V.Ramaniah, M.R.Doraiswami and C.Abdul Hamid, Officiating Clerks against the orders of the Director declaring their appointment to the Upper Division prior to April 1945 as emergency appointment.

56052 PP.22-29 ante Ref: Govt.Memo.No.22344-2 B, Education, dated 20-10-45.

Probably Government are under the impression that because the Petitioners were drawing Officiating allowance while Offg. as Upper Division Clerk, the posts in which they were acting should have been declared as posts which carried responsibilities of greater importance and because of that the clerks should have been asked to put in a period of probation. The following facts, however, will clarify the position:

26/(Q)

32-33/(A) 1-6/(Q) 4-5/(W) (Z)

2 Government have refused to admit that posts in the Upper Division of my office carry with them responsibilities of greater importance than posts in the lower division - vide G.O. No.1594, L.E., dated 17-12-22 and G.O.No.1129, Edn.& P.H., dated 17-5-38 which was issued after due consideration of the detailed statement of duties attached to posts in the Upper Division of my office forwarded in my letter to Government R.C.No.554 F/35, dated 31-10-35 in response to Govt. Memo.No.16480-2, P.S., dated 22-7-35. Even, as late as 1941 Govt. in their Memo.No.2551 B.4, Edn. & P.H., dated 1-3-41 have refused to grant Officiating Allowance to Offg. Upper Division Clerks. It is therefore clear that no post in the Upper Division of my office is, in the opinion of Government, worthy of a declaration under Fundamental Rule 30.

20-21/(W) 4-5/(W)

3. It is no doubt true that with reference to G.O.M.S.1064, Education, dated 9-7-41, eleven posts in the Upper Division of my office were made eligible for drawing the Offg. Allowance. This was a concession, as the posts merely satisfied one of the tests enumerated in Govt.Memo.No.2551-B.4, dated 1-3-41 and not that the promotion to the posts involved the assumption of duties of importance. For this reason, the incumbents of the posts were not treated as probationers with reference to rule 34(a)(ii)(3) of the Madras Ministerial Service Rules read with Rule 30(c) of the General Rules for Provincial and Subordinate Services. In this connection I also invite the attention of Government to my letter R.C.3939-C/45, dated 17-10-45 in which I have suggested to Government that in future probation may be prescribed for all posts of Upper Division Clerks.

p 273 B.R 114 p 199 B.R 112 (in a separate file on general question in Pub(Ser) orders have not yet issued)

4 However, the Petitioners Messrs. M.R.Doraiswami, C.Abdul Hamid and P.V.Ramaniah while they were Offg. in the Upper Division were actually doing duties of the posts for which Offg. allowance was granted. A certificate to this effect was also furnished to the Accountant-General along with the pay bills in support of the claim of Offg.allowance on their behalf.

I have the honour to be,
Sir,
Your most obedient servant,
[signature] 8.12.45
for DIRECTOR OF PUBLIC INSTRUCTION.

E.&P.H.(B)
The papers quoted above are being collected. This may lie over till 29-12-45.
[initials] 24/12/45
[initials] 24/12/45

TRB 8/12 [initials] 8/12

31/ Estt(B)

T.M

From The Assistant Secretary, Estt Dept (24)

To The Deputy D P.D.

Reference Director's letter RC. no 201 P/45 dated 6.12.45 regarding petition of Messrs P.V. Ramaniah, HR Doraiswami & C Abdul Hamid Hg clerks regarding their appointment to the Upper Division

---

Please furnish a copy of the Director's letter RC. 3939-C/45 & 17.10.45 and of the orders if any passed thereon as it does not appear to have been received in the Estt. section (B).

Asst 11/1/46

Issued DAG 11/1/46

p 32 below

Asst 10.1.46

DAG 11/1/46

got the question papers printed in 1938-1939 and 1939-1940 in a Press different from the one which did the ordinary work of the Municipal Council is approved.

(By order of His Excellency the Governor)

R.V.Krishna Ayyar,
Joint Secretary to Government.

To the Commissioner, Ellore Municipality, through the Chairman.
All other Executive Authorities of Municipal Councils through Chairmen.
The Presidents of District Boards,
The Inspector of Municipal Councils and Local Boards.
The Director of Public Instruction.
The Examiner of Local Fund Accounts.

(True Copy)
Forwarded
(By order)

E. A. [illegible]
Superintendent.

jn.

Post copy of the Telephone message dated 15-1-46.
****

32

From

The Deputy Director of Public Instruction,
Madras.

ASST. SECRETARY TO GOVERNMENT
16 JAN 1946
EDUCATION AND PUBLIC HEALTH DEPT.

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

Ref:- Your Telephone message dated 11-1-1945.

A copy of my letter Rc.No.3939-C/45, dated 17-10-1945 is herewith furnished.

2) My letter to Government is with reference to Government Memorandum No.43001-C/45, P.H., dated 1-10-45 relating to prescription of probation for all posts of Upper Division Clerks and Government have not passed any orders on the same till now.

2547 (in main file on general question in Public (Ser.).

[signature]
15.1.46
Deputy Director of Public Instruction.

Copy of Director's letter Rc.No.3939-C/45, dated 17-10-45

Sub:- Public Services - Madras - Ministerial service - Lower Division clerk promoted to upper division - Probation.

With reference to Government Memorandum No.43001-C/45-1, P.H., dated 1-10-45, I have the honour to state that I consider it desirable that probation should be prescribed for all posts of upper Division clerks.

(in main file in Public Dept.)

True copy

[signature]
for Director of Public Instruction.
15.1.46

WD. 15-1.

R.C.201-F/45

Office of the
Director of Public Instruction,
Madras, Dated 27---3---1946.

From

Dr.S.R.U.Savoor, M.A., D.Sc., I.E.S.,
Director of Public Instruction, Madras.

17496

To

The Secretary to Government,
Education and Public Health Department.

ASST. SECRETARY TO GOVERNMENT
29 MAR 1946
EDUCATION AND PUBLIC HEALTH DEPTT.

Sir,

Sub: Establishment - Office of the Director of Public Instruction, Madras - Messrs P.V. Ramaniah, M.R. Doraiswami and C. Abdul Hamid, Officiating Upper Division Clerk - Petition against Director's order declaring their appointment to the Upper Division prior to 1st April 1945 as emergency appointment - orders on the - requesting.

Ref: My Endt RC.No.201-F/45, dated 15-6-45 submitting the appeal petitions of the clerks.

I invite your kind attention to my Endt referred to above, and request you to inform me when Government orders thereon may be expected.

28.3.46

for Director of Public Instruction.

RVR 28/3/-

B. CHARGES

1. Food	–	–	–	1861.	–
2. Clothing	–	–	–	173.	8. –
3. a)Books and slates	–	–	–	20.	3. 9
b)Stationary	–	–	–	–	– –
4. Medical Aid	–	–	–	53.	7. 6
5. Staff	–	–	–	222.	– –
6. Servants (exclusive for the Orphanage)		–	–	231.	– –
7. Ordinary repairs e.g. (whitewashing etc.)				70.	9. 3
8. Rents (if the building is rented by the Orphanage)				–.	–. –.
b) Taxes (if the building is owned by the	"			–.	–. –.
9. Contingencies	–	–	–	317.	2. 2
10. Outlay not falling under the above heads		–	–	–.	–. –.
Total				3008.	15. –

Station: Mayavaram
Date: 4/6 1937

CORRESPONDENT.

Declaration of the Inspecting Officer.

I hereby declare that I have checked the financial statement and its enclosures with the accounts maintained in the Orphanage and vouchers produced and found them to be correct, except in regard to the following items.
(A seperate note explaining discrepancies should be attached) and that Iam of opinion that the orphanage is not run for private profit.

Station:
Date:

Signature of Inspecting Officer.

Education & Public Health Dept.(A)

C.No. 22344/45

Establishment - Office of the D.P.I. - Certain clerks - Emergency appointment - Petition against the Director's order - Orders passed.

pp 26-27 CF & p 30 CF

From the D.P.I. Rc.No.201.F/45, dated 15-6-1945 and 6-12-1945.

For precedent pl see (Y)

ORDER/Ms.No. 721 Edn., dated. 4-4-46

Y on p 26 CF

The D.P.I. promoted as upper division clerks, in 1944, the following L.D. Clerks employed in his office:

(1). Sri M.R.Doraiswamy.
(2). Mr. Abdul Hamid.
(3). Sri N.Balasubramanian.
(4). Sri P.V.Ramanaiah.

do.

The promotions were made under the emergency rule as the clerks had not then passed all the tests prescribed for promotion to the upper division. In June 1944, when they passed all the tests, their appointments in the upper division were regularised in the Director's O.O.No.110/44 dated 17-8-1944. On a representation from Sri S.Arumuga Nadar, another clerk employed in the office, the Director reviewed the promotions made by him and decided that on grounds of ~~equality~~ equity the claims of Sri Arumuga Nadar and Sri T.V.Venkatanarayanan for promotion to the u.d. should be conceded as they were fully qualified and senior to the persons referred to above. With a view to give these two clerks seniority in the u.d. the Director directed in modification of his previous order that the appointment of the four clerks be treated as temporary under rule 31 of the Madras Provincial and Subordinate Services Rules. Three of these clerks have petitioned to Government. The Government consider that the course adopted by the Director affects the petitioners adversely and unduly in the matter of their increments and that the object of the Director's order can be achieved by protecting the rights of seniority of Sri Arumuga Nadar and T.V.Venkatanarayanan.

† copy at p 11 CF

K on p 26 CF

B on p 26 CF

(x) (1), (2) & (4) — pp 1-10 CF, pp 12-19 ", pp 21-25 "

p 7 nf

A on p 4 nf

In exercise of the powers conferred by sub-section (5) of Section 241 of the Government of India Act, 1935, H.E. the Governor of Madras directs that rule 29(a) of the General Rules for Madras Provincial and Subordinate Services be relaxed in favour of Sri Arumuga Nadar and Sri T.V.Venkatanarayanan and that they be treated as seniors to Messrs. M.R.Doraiswamy, Abdul Hamid, N.Balasubramanian and P.V. Ramaniah for purposes of appointment in the cadre of u.d. in the office of the D.P.I.,

7/4/46

2. The office order of the D.P.I. No. 52/45 dt. 20-4-45 is cancelled

To the D.P.I.
Copy to M.P.S.C.

Education & P.H. Department (B).

ESTABLISHMENT - Office of the Director of Public Instruction - Messrs. P.V. Ramanaiah, M.R. Doraiswami and C. Abdul Hamid - Officiating clerks - Petition against the Director's order declaring their appointment to the Upper Division prior to 1--4--45 as emergency appointment.

Petitions from Messrs. P.V. Ramanaiah, M.R. Doraiswami and C. Abdul Hamid, Officiating clerks, Office of the D.P.I., dated the 9th May 1945, 19th May 1945 and 24th May 1945.

Endt. of the D.P.I., R.C.No. 201 F/45 dated the 15th June 1945.

Messrs. P.V. Ramanaiah, M.R. Doraiswami and C. Abdul Hamid, Officiating clerks in the Office of the Director of Public Instruction, Madras, have petitioned against the Director's Office Order No. 52/45, dated the 20th April 1945, in which he modified his original Order No. 110/44 dated the 17th August 1944 regularising the temporary promotion of these clerks to the Upper Division previously made and again declared that their promotion to the Upper Division prior to 31--3--45 would be considered to be temporary under rule 31 of the general rules for the Provincial and Subordinate Services. The reasons for revising the order regularising the temporary appointments of these clerks are given in the Director's letter on p. 26 cf.

2. The posts of Upper Division clerks in the Director's Office are selection posts appointment to which is made only on grounds of merit and ability, seniority being considered only where merit and ability are approximately

approximately equal. The Director says Messrs. S. Arumuga-Nadar and T.R. Venkatanarayanan two clerks transferred to the Director's office from subordinate offices were fully qualified for promotion in the vacancies which arose in the Upper Division in 1944 but by mistake the petitioners who were not fully qualified then came to be promoted and in order to set right the injustice caused thereby, his office order regularising the temporary appointments made to the Upper Division had to be modified. In regard to the contention that Sri S. Arumuga Nadar and Sri T.R. Venkatanarayana had relinquished their right of seniority in writing and that the Director's Order No. 110/44 dated 17--8--44 regularising the temporary promotions of the peitioners had ~~confined~~ conferred probationary rights, the Director has pointed out that the undertaking referred to was only in regard to appointment as clerks in the Lower Division and there is no probation for a lower division clerk promoted to the upper division. Attention is solicited to rule 34 (a) (ii) of the Madras Ministerial Service Rules. Probation to Upper Division clerks' posts in the Director's office is required only in respect of those posts which have been declared to involve the assumption of duties and responsibilities of greater importance than those attaching to lower division posts under F.R. 30. From the Director's letter on p.1. of G.O.No. 414 Edn., dated 10--3--42 it will be observed that there are only certain specified posts of such a nature. Presumably the Upper Division posts in which the petitioners officiated were not of that category. In the circumstances there seems to be no case for interfering with the orders passed by the Director.

Public (Services) may see for remarks.

pp 23-24 cf.
p 11 cf
X on p 26 cf
Y on p 27 cf
p 273 of Bk No 114
G/1
X
Y

13.9.45
15.9.45
17/9 Pub. (Ser.)
12/9

E. & P. H. Wo. No. 22344-18. 17-9-45

ASSISTANT SECRETARY TO GOVT.
1040
18 SEP 1945
CHIEF SECRETARIAT

° J in 17 Feb. 44 - Z on p. 17 & 21-22 cf.

× transferred to the DPI's office on 10.11.43 - K on p. 26 cf.

(×) K on p. 26 cf.
⊘ C on p. 20 cf.

α D on p. 20 cf.

The proper course is not to deprive the ~~probato~~ petitioners of a portion of their service in the u.d but to ~~make~~ give seniority over them to Venkatanarayanan & Arumuga Nadar by relaxing the seniority rule. Did not legal say so in a similar case recently? 23/9/45

pp. 24-25 of Bk. No. 154

cf. rule 34 a(ii) (3) of the M.M.S. Rules on p. 273 of Bk. No. 114 read with G.l. Rule 30(c) on p. 199 of Bk. No. 112.

B on p. 26 cf.
- ibid -

(Separate file in this section)

(29) Public (Services) Department.

The facts of the case are set out briefly in paragraph 3 of the Director's Endorsement on pp.26-27 C.F. At the time the petitioners were promoted to the u.d. under the emergency provisions, the claims of Sri Arumuga Nadar and Sri Venkatanarayanan for promotion to the u.d. were not considered presumably because they had been transferred to the Director's Office from subordinate offices only recently. This was also in accordance with the past practice in the office--see paragraph 5 of the Director's Endorsement on page 27 C.F. Sri Arumuga Nadar, a clerk taken from the Office of the Inspectress of Girls Schools, Fourth Circle, petitioned against the promotions of the petitioners only on 17-8-1944. As by that time the petitoners had been fully qualified to hold posts of u.d. clerks and as orders had also been issued regularising their promotions, the Director was not bound to cancel the promotions already made. He, however, cancelled his previous order and in his Office Order dated 20-4-1945, directed that the petitioners should be regarded as having officiated in the u.d. upto 31-3-1945 under the emergency provisions so that Messrs. Venkatanarayanan and Arumuga Nadar might get seniority over the petitioners in the posts of u.d. clerks. From the rules point of view, there ~~is~~ seems to be nothing irregular in this order.

2. From the portions marked B on pages 18 and 22 C.F., it would seem that at least two of the petitioners were acting in posts in respect of which declarations under F.R.30 have been issued. They should, therefore, be treated as probationers in the category of u.d. clerks; and the Director's statement at Y on page 27 CF, and the statement at X on page 2 ante do not seem to be correct. There does not, however, seem to be much force in the ~~argument~~ contention of Mr. Abdul Hamid at E on page 24 C.F. because there was no actual termination of probation in this case, but only a revision of the orders issued earlier to set right an ~~appointment~~ apparent irregularity. The question whether it is desirable in an office ~~where~~ to have two sets of u.d. clerks -- one for which probation is necessary and the other for which probation is not necessary -- has been raised by A.S. in another file. It is

being examined.7

3. The Education & Public Health department consider that, on merits, there is no case for interfering with the Director's orders. This department may agree with this view. The file may be returned to E.& P.H.

Y on p. 2 ante

Please see my query in the margin.
[signature] 23/9/45

S 22.9.45 [initials] 22.9.45

With reference to A.S's. query in the margin on page 3 supra, a reference is invited to paragraph 2 of the Legal Department's note on p.3 N.F. of G.O.No.1922, P.W.D., dated 18-7-1945. The Director's action in having ordered that the petitioners should be regarded as having officiated in the upper division upto 31-3-1945 under the emergency provisions will affect them adversely in the matter of increment because service under the emergency provisions will not count towards increment. As suggested by A.S., the proper course seems to be to cancel the Director's order and ~~to~~ give Sri Arumuga Nadar and Sri Venkatanarayanan seniority over the petitioners by relaxing the seniority rule. If, later on, it is found that the petitioners, by completing their probation, if any, in the upper division ~~if any~~, earlier than the two persons referred to above, are likely to obtain any advantage over them in the matter of confirmation, it may be necessary to relax also in favour of the latter the rules relating to appointment of full members also (General Rules 25 or/26 ~~also~~ as the case may be)

E
+ p 11 c.f.
+ Vol. 31(f) a
p 200 g
B.K. 11
A

The file may be returned to E.& P.H. who may be requested to circulate the case to A, and H.E. before issuing orders.

[initials] 25.9.45

[signature] 26/9/45 CS
[initials] 28.9.45
E.P.H

78

Pub Ser. L-O. 1040/45 28-9-45.

ASST. SECRETARY TO GOVERNMENT
28 SEP 1945
EDUCATION AND PUBLIC HEALTH DEPT.

4335 MR

E&PH(B)

Please see the Public (Ser) Deptt's note above.
with reference to the portion marked W on p3 ante, it may be ascertained whether the statements of Messrs Doraiswami Abdul Hamid at B on pp 18 & 22 cf are correct and whether the post of upper divn. clerk in which Sri P.V. Ramaniah was officiating was not one in respect of which declaration under FR 30

A (30)

has been issued.

A draft memorandum is submitted below for approval.

B.M.
19-10-1945.

p. 28 cf. (Memorandum No.22344.2.B.Edn. dated 20-10-1945)
p. 30 cf. C.No.56052.B.45 From the D.P.I. Rc.No.201.F.45 d/6-12-45
p. 32 cf. C.No.2547.B.46 do. P.C. of T.M. dated 15-1-1946.

...

With reference to the portion marked "W" in Pub. (Ser) Dept. note on p.3 ante the D.P.I. states that although all the three petitioners were officiating in upper division posts for which officiating allowance was granted, [illegible] not required to put in probation in the upper divis[illegible] of the position stated in para 3 of the letter on p[illegible] The view taken by the Director in para 3 of his let[illegible] not seem to be correct. The criteria ~~xxxx~~ mentione[illegible] memorandum on pp.4-5 c.f. of G.O.No.1064 Edn. dated [illegible] laid down to decide which of the u.d. posts had mor[illegible] and responsible work and officiating allowance were [illegible] only to posts which satisfied one or more of these tests. Promotion to these posts certainly involved assumption of duties of importance. Otherwise there is no point in giving officiating allowance on appointment to these pots. In the circumstances, it is for orders whether the course suggested by Public (Ser) at "A" on p. 4 ante may be followed.

Public (Services) may see before circulation.

[initials] 25/2/46 S

May be followed. [initials]

E&PH No. 22344 B1/45-3 Edn 26/2/46

A 26/2

12680

ASST. SECRETARY TO GOVERNMENT
4 MAR 1946
EDUCATION AND PUBLIC HEALTH DEPT.

ASSISTANT SECRETARY TO GOVT.
4/2
27 FEB 1946
CHIEF SECRETARIAT

26/2/46 Pub. (Ser)

Pub (Ser) Dept

Previous note of this dept is on pp. 3-4 ante. The further notes on pp. 4-5 ante may be perused. The file may be returned to the E & P.H Dept. who may be requested to send a copy of the relaxation order to the M.P.S.C.

S 28/2/46 [initials] 1.3.46

[signature] 2/3/46
V.P.ECHUNNI MENON

E&P.H

Pub Ser. No. 402/46-1 4.3.46

78

Edn. &P.H.(A).

The file deals with representations from three clerks of the Office of the D.P.I., Messrs. P.V. Ramanaiah, M.R.Doraiswami, and C. Abdul Hamid. They are permanent Lower division Clerks. In 1944, they were promoted as Upper Division Clerks under the emergency provisions as they had not then passed one of the tests prescribed for promotion to the Upper Division. Subsequently when they passed the test, their appointments in the U.D. were regularised D.P.I.'s O.O.No. 110/44 dated 17th August 1944. On the representation of one Sri S.Arumuga Nadar, another clerk of the Office of the D.P.I., the Director ~~investigated~~ reviewed the promotions made and concluded that a mistake had been made in not having promoted (1) Sri S.Arumuga Nadar and (2) Sri T.V.Venkatanarayanan who were transferred from the subordinate offices and who were fully qualified at the time when the vacancies arose. The Director, therefore, modified his order and directed that the appointments of the petitioners and another be treated as temporary till 31-3-45 with ref. to rule 31 of the Madras Provincial and Subordinate Service Rules. The order passed by the Director was with a view to give seniority to the two clerks mentioned at A above.

p 26 CF

copy on p 11 CF

| A

Proceedings O.O.No. 52/45 copy at p 11 CF.

M on p 26 CF

The representations of the petitioners and the report of the D.P.I. have been examined in consultation with the Public (Ser) ~~in the~~ - Pl see notes on pp. 1-6 ante. It is observed that the course adopted by the Director will affect the petitioners adversely and unduly in the matter of their increments, as service under the emergency provisions will not count for increment and that the object of the Director's ~~object~~ order (the propriety of which, in equity, is conceded) can be achieved by relaxing rule 29 (a) of the M.P.& S. Service Rules in favour of the two clerks referred to at 'A' above. It is, therefore, proposed to cancel the order of the D.P.I. O.O.No. ~~110/44~~ 52/45 dated 20-4-45) and to relax rule 29 in favour of the two clerks. ~~the rule 29~~. The case may be circulated to A-4, A-1 and H.E.

pp. 1-25 CF

pp 26-27 CF

A on p 4

p 200 BR 112

p. 11 CF

[illegible] 9/3/3

W
8.3.46

[illegible]
12/3/46 S

[illegible]
13/3/46

A4. A1. HE

The proposal follows the advice of Public (Services) at [illegible]

(31)

A. P 4 ante. It preserves the seniority of the two clerks who were wrongly superseded, but allows the other clerks the benefit of service for increments. The proposal may be approved.

J.B. Brown
14-3-46

MADRAS GOVERNOR'S SECRETARIAT
15 MAR 1946
1703

[illegible]
14 3 46

HE

H.E.

[illegible] 18 3 46

SECRETARY, EDN. AND P.H. DEPT.
19 MAR 1946
GOVERNMENT OF MADRAS

A draft order is submitted.

[illegible]
24.3.46

W
26.3.46

OSM
27/3/46 S (Approved [illegible])

(31)