Stat. II-27—10,001—22-8-46.

Closed
Ob

EDUCATION AND P.H. **(194 7.) Department.**

Ms. **SERIES.**

G.O. NO. Ms. 13 Education.

Dated 4th January, 1947.

27

[Despatch Abstract.]

Establishment - Municipal Council Salem - Sri M.S. Swaminatha Iyer - Petition for appointment as Supervisor of Elementary School - Rejected.

Back Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Memo	5183A/40-2	Edn	30.3.40				
Go	590	Edn	18.4.44				
Go	2833	L A	16.10.41				
Go	1857	L A	8.7.41				
Go	2099	Edn	31.10.40				
Go	3648	L.S.G	18.8.36				
Go	4209	L&H	14.10.35				
Go	1988	Edn	2.9.39				

Further Papers.

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

878

18255
4/4

②

To
The Secretary,
Education & Public Health Department,
Govt. of Madras,
Fort St. George, Madras.

Through
The Commissioner,
Salem Municipality,
Salem.

Sir,

I beg to submit the following:

I submitted a memorial on 17-1-1946 to the Secretary, Education & Public Health Dept. Govt., of Madras, against the order of the Commissioner, Salem Municipality, reverting me as Head-Master of an Elementary School from the post of Supervisor of schools in pursuance of the orders of the Director of Public Instruction, Madras. I beg to request that orders passed on it may kindly be caused to be communicated to me.

I beg to remain,
Sir,
Your most obedient servant,
M. Swaminathan
30.3.1946.
Head-Master
(Municipal Higher Elementary
Boys' school, Pennapet, Salem.)

(Advance copy submitted direct to save time.)

C 19/94

9

(3)

3/

[illegible]

Memo 18255 B2/46-1 Edn dt 8-4-46.

Petition from Swaminatha Ayyar, headmaster of ~~the~~ Municipal elementary school, Pennagar, Salem dt 17.1.46.

Reversion from the post supervisor of elementary school

x lodged

The Govt. have received an advance copy of ~~the~~ a petition from Swaminatha Ayyar headmaster Municipal Corp school, Pennagar on the subject of his ~~[illegible]~~ reversion from the post of supervisor of school. The Commissioner Salem Municipality is requested to report ~~what~~ when the original submitted through him will be forwarded to Govt. with his remarks.

8-4-46

To
The Comr. Salem
Mpy thro the [illegible]

8.4.46

8/4/46

Memo. No. 18255-B2-2 dated 7-6-46

E.H. Mlt, Salem – Sri M.S. Swaminatha Iyyer, Headmaster, M.H.E.B. School, Ponnammapet – Reversion from the post of Supervisor of Elementary Schools

The attention of the Commissioner, Salem Mlty, is invited to his letter Rec. No. C3.547-46 of 19-4-46 on the subject cited and he is requested to state when the memorial referred to therein will be forwarded to Government. [illegible]

To the Commr
Salem Mlty
thro C.H.

From
Sri M.Minakshisundaram,
Commissioner,
Salem Municipality, Salem.

To
THE SECRETARY TO THE GOVERNMENT OF MADRAS,
Education and Public Health Department,
Fort St.George, Madras.

Rec. No. C3.547-46, Dated 19-4-1946.

27 APR 1946

Sir,

Sub:- ESTABLISHMENT-M.H.E.B.S-Ponnammapet-Sri M.S.Swaminatha Iyer-H.M-Reversion from the post of Supervisor of Elementary Schools-Memorial-submission of.

P.3 cf ||

Ref:- Government Memorandum No.18255-B2-461-E. dated 8-4-46.

The Chairman, Municipal Council, Salem through whom the memorial of Sri M.S.Swaminatha Iyer was submitted with the remarks of the Commissioner for being forwarded to the Government has requested me furnish certain particulars to enable him to offer his remarks on it. I am furnishing the particulars to the Chairman and the memorial will be submitted to the Government by the Chairman at an early date.

COMMISSIONER.

ss/22.4.p.

22.4.46

FORWARDED

CHAIRMAN,
Municipal Council, Salem.

22732

To the Commr
Salem Mlty
thro C.H.

Dft
7.6.46

Edu & P.H. Deptt
B2.

This may lie over till 29/5 or till the date of receipt of reply from the Commr Salem Mlty whichever is earlier.

29/4 on 29/4 30/4/46

32/
8/6 G

Memo No 18255 B2-2 Edn d. 7.6.46.

E.stt - Mld, Salem - Sri M.S. Swaminatha Ayyar Headmaster, M.H.E.B. School, Ponnammapet - Reversion from the post of Supervisor - Appeal.

The attention of the Commissioner ~~Municipal Council~~ Salem, Mpty is invited to his letter ~~no~~ Roc No C3. 547-46 d 19.4.46 on the above subject and he is requested to state when the memorial referred to therein will be forwarded to Govt.

7/6/46

7.6.46

2/6/46

To The Commr
Salem Mpty
thro C.M.C

Despd
7.6.46

E HP&Dept
B2

27/7

Memo No 18255 B2 - 3 Edn d. 8.7.46

Estt - Mld - Salem - Sri M.S. Swaminatha Ayyar, Headmaster, M.H.E.B. School, Pennapet - Reversion from the post of Supervisor - Appeal.

The attention of the Commissioner Salem Mpty is invited to Govt Memo No 18255 B2. 2 Edn d 7.6.46. He is requested to expedite his reply.

8.7.46.

6/7/46

6/7/46

To The
Commissioner
Salem Mpty.
thro C.M.C.

Despd on
10.7.46

SALEM M PALITY

From:
Sri K.P.Kandaswami Pillai,
Commissioner,
Salem Municipality, Salem.

To:
The Secretary to the Gov
of Madras,
Education and Public Health Dept.,
MADRAS.

R.O.C.No.C3.547-46.

Dated 31--1--1946.

SECRETARY TO GOVT. EDUCATION AND PUBLIC HEALTH DEPT.
10 AUG 194

Sir,

Sub:- Establishment - Municipal H.E.B.S - Sri M.S.Swaminatha Iyer - H.M - Reversion from the post of Supervisor of Elementary Schools - Memorial - Submitted to the Govt.,

=====

45317

pp25-30

The memorial preferred by Sri M.S.Swaminatha Iyer, Headmaster, Ponnammapet Higher Elementary Boys School against this office order C3.11824-45 dated 7-1-46 based on the proceedings of the Director of Public Instruction, Madras reverting him from the post of Supervisor of Elementary Schools to his permanent post as Headmaster of Higher Elementary Boys School is submitted with the following remarks.

p398 (m)

Sri M.S.Swaminatha Iyer, the petitioner is a permanent Secondary grade Headmaster of Municipal Elementary Schools. Sri P.Manickam Pillai, B.A.,L.T., the permanent Supervisor of Elementary Schools was appointed as assistant in Municipal High School, Salem in August 1938. The Appointment Committee of the Municipal Council, Salem, selected and appointed Sri M.S.Swaminatha Iyer to act as Supervisor of Elementary Schools in the place of Sri P.Manickam Pillai in its resolution No.14 dated 13.8.38 (Copy enclosed) and the appointment was also approved by the District Educational Officer, Salem. Sri M.S.Swaminatha Iyer, the petitioner acted as Supervisor of Elementary Schools from 1-9-38 to 3-12-38 and was reverted as Headmaster of an Elementary School from 4-12-38 when Sri P.Manickam Pillai, the permanent Supervisor was reverted from the Municipal High School, Salem. Thus M.S.Swaminatha Iyer commenced probation in the post of Supervisor of Elementary Schools in 1938.

p31 supra

Sri M.S.Swaminatha Iyer, the petitioner was again appointed to act as Supervisor of Elementary Schools from 19-6-39 as Sri P.Manickam Pillai, the permanent Supervisor was appointed as assistant in Municipal High School, Salem.

The scale of pay sanctioned for the post of Supervisor of Elementary Schools is Rs.30-3/2-45-2/2-55. Sri P.Manickam Pillai, the permanent Supervisor of Elementary Schools was drawing Rs.30/- in the above scale of pay. In G.O.No.Ms.1988, Education, dated 2-9-39, the Government permitted the major Municipalities to employ Supervisors with the qualification of B.A.,L.T., or B.A.,B.Education, and to grant them an initial pay of Rs.45/- in the above scale of pay. On receipt of the Government Order, the Municipal Council, Salem passed a resolution to appoint a B.A.,L.T., as Supervisor of Elementary Schools. Sri P.Manickam Pillai, B.A.,L.T., the permanent Supervisor was already acting as assistant in Municipal High School, Salem on Rs.65/-. Therefore Sri N.Rangaramanujalu, B.A.,L.T., was appointed as Supervisor of Elementary Schools and Sri M.S.Swaminatha Iyer, who was then acting as Supervisor had to be reverted as Secondary grade assistant in Municipal High School, Salem from 25-1-40.

p37 (L)

Sri N.Rangaramanujalu, B.A.,L.T., was acting as Supervisor of Ele[illegible]tary Schools from 25-1-40 to 22-6-43 and he was appointed as L.T. [illegible]ssistant in Municipal High School, Salem from 23-6-43. As Sri [illegible]anickam Pillai, B.A.,L.T., was confirmed as L.T., assistant in Municipal High School, Salem Sri N.Rangaramanujalu Naidu, was confirmed as Supervisor of Elementary Schools from 8-9-43 and was allowed to act as assistant in Municipal High School, Salem.

After the appointment of Sri N.Rangaramanujalu Naidu as L.T., assistant in Municipal High School, Salem, no suitable B.A.,L.T., was available for appointment as Supervisor of Elementary Schools on the low pay of Rs.45/pm. Hence the Municipal Council, Salem pp 81 infra

Salem approved the appointment of a Secondary grade teacher as Supervisor of Elementary Schools in its resolution No.363 dated 13.7.44 (Copy enclosed) A secondary grade trained teacher had to be appointed as Supervisor of Elementary Schools according to the resolution of the Council.. Sri M.S.Swaminatha Iyer, the petitioner had already acted as Supervisor and therefore he is a probationer for that post. According to rule 21, of the rules relating to establishments under Municipal Councils published in G.O.No.2342L.S.Gdated 2-6-36 Sri M.S.Swaminatha Iyer, the petitioner had to be appointed as Supervisor of Elementary Schools as he was reverted from that post when a B.A.,L.T., was appointed. The Appointment Committee of the Municipal Council, Salem recognised the claims of the petitioner on the post of Supervisor of Elementary Schools and the petitioner would have been appointed as Supervisor of Elementary Schools, if he had not been on medical leave then. As Sri M.S.Swaminatha Iyer was on medical leave, the Committee selected and appointed Mr.B.Abraham, Secondary grade Headmaster of a Municipal Elementary School as Supervisor of Elementary Schools The resolution passed by the Appointment Committee while appointing Mr.B.Abraham is as follows:-

pp 252-253

A

> "Mr.B.Abraham is appointed as Supervisor of Elementary Schools as Mr.M.S.Swaminatha Iyer is on leave".

Mr.B.Abraham was appointed as Supervisor of Elementary Schools from 18-8-44 as resolved by the Appointment Committee. Mr.B. Abraham was acting as Supervisor of Elementary Schools from 18-8-44 as Sri M.S.Swaminatha Iyer was then on medical leave.

Sri M.S.Swaminatha Iyer continued to be on Medical Leave till 19-1-45. He produced a certificate of physical fitness to return to duty on 20-1-45. I considered that his health would not permit him to do out-door work as Supervisor of Elementary Schools and therefore I posted him on my own responsibility much against his will as Headmaster of Higher Elementary Boys School, Kitchipalayam from 20-1-45 and I also informed him that the question of posting him as Supervisor of Elementary Schools would be considered after he picked up sufficient health for out-door work. M.S.Swaminatha Iyer joined as Headmaster of Kitchipalayam Higher Elementary Boys School on 20-1-45 as ordered.

On 16-4-45, he put in a petition requesting to appoint him as Supervisor of Elementary Schools as he had gained sufficient health for out-door work. As I found that he had improved in health and in consideration of his claims on the post of Supervisor of Elementary Schools as stated above I appointed him as Supervisor of Elementary Schools reverting B.Abraham as Headmaster of Ponnammapet Higher Elementary Boys School from 1-5-45 in my order No.C3.7615-45 dated 28-4-45. It is against this order reverting him as Headmaster of Elementary School, that (Mr.B.Abraham) preferred an appeal to the Director of Public Instruction, Madras and the Director of Public Instruction has allowed the appeal and passed orders to re-appoint him as Supervisor of Elementary Schools ousting M.S. Swaminatha Iyer on the following grounds in his Dis.4189-45 dated 6.12.45.

97 (F)

98 (SM)

(1) that M.S.Swaminatha Iyer lost all claims of re-appointment as Supervisor after the L.T., was appointed as Supervisor of Elementary Schools and confirmed in the post.

(2) that he did not appeal against the appointment of Mr.B.Abraham in August, 1944 and establish his claims.

(3) The fact that B.Abraham was appointed as M.S. Swaminatha Iyer was not available cannot give the latter any right.

(4) That B.Abraham should not have been appointed on probation if it was intended that M.S.Swaminatha Iyer should retain his claims.

It cannot be held that Sri M.S.Swaminatha Iyer lost all claims of re-appointment after Sri N.Rangaramanujalu, B.A.,L.T., was appointed as Supervisor of Elementary Schools and confirmed in the post. According to rule 21 of the rules relating to establishments under Municipal Councils published in G.O.No.2342, L.S.G., dated 2-6-46, preference had to be given to Sri M.S.Swaminatha Iyer after the Council resolved to appoint a Secondary grade teacher as Supervisor of Elementary Schools in 1944, as he was reverted from that post in 1940 when a B.A.,L.T., was appointed and not for any fault of his. The Appointment Committee did not refuse to appoint him but has recorded the reasons for not selecting him at that moment and no such order was also communicated to him as laid down in proviso No.2 to rule 21 of the establishment rules. According to the resolution of the Committee, Sri M.S.Swaminatha Iyer had to be considered as the senior probationer for the post. As the Committee did not refuse to appoint him as Supervisor of Elementary Schools, there was no necessity for him to prefer an appeal.

The Director of Public Instruction has stated in his order that if it was intended that M.S.Swaminatha Iyer should retain his claims, B.Abraham should not have been appointed on probation. There is no rule prohibiting the appointment of one or more persons on probation to a post. Therefore the fact that Mr.B.Abraham was appointed on probation cannot deprive Sri M.S.Swaminatha Iyer of his right for re-appointment in the post. Sri M.S.Swaminatha Iyer had to be considered as the senior probationer by virtue of his having acted as Supervisor twice before ever Mr.B.Abraham was appointed and Mr.B.Abraham has to be considered as junior to M.S.Swaminatha Iyer.

Sri M.S.Swaminatha Iyer has been reverted as Headmaster of Ponnammapet Higher Elementary Boys School and Mr.B.Abraham has been posted as Supervisor of Elementary Schools from 9.1.46 in accordance with the orders of the Director of Public Instruction, Madras on the appeal of Mr.B.Abraham. Sri M.S.Swaminatha Iyer has put in the memorial to the Government, against the order of the Director of Public Instruction, Madras. I request that the Government may be pleased to reverse the orders of the Director of Public Instruction and restore M.S.Swaminatha Iyer to the post of Supervisor of Schools. The Director of Public Instruction has not given any rule or authority for the conclusions he has arrived at.

The following records of this office are also sent herewith for reference and return.

(K) (1) D.22175--39.
(B) (2) D. 1480--44.
(Y) (3) L. 832--45.
(F) (4) L. 7615--45.
(M) (5) C3.11824-45.

ss/31.1.p.

COMMISSIONER.

31/1

FORWARDED

CHAIRMAN, Municipal Council, Salem.

Retransmitted to the Commissioner for favour of furnishing information on the following points:

1. Who is the final authority for passing orders on appeals from Educational Department?

2. Is there any provision in rules relating to the enquiry, punishment and appeal of municipal subordinates for submitting a memorial to an authority higher than the final authority?

3. Are there Government Orders for or against the submission of such memorials?

4. If so, what is the considered opinion of the Commissioner about the submission of this particular memorial? Is the Commissioner duty-bound to forward this memorial to the Government? He will kindly put up the G.Os in support of his considered opinion.

5. Is it a fact that Mr.Swaminatha Iyer was fined Rs2/- by the Municipal Commissioner on 30-10-37 for giving false explanation and for not discharging duties according to the time-tables.

6. Is it a fact that Mr.Swaminatha Iyer, the memorialist, was again fined Re1/- by the Municipal Commissioner on 23-7-1939 for indifference in work? The Commissioner is requested to put up the orders quoted above.

7. Is it a fact that Mr.C.K.Chetty an ex-Commissioner once made a surprise visit to Mr.Swaminatha Iyer's institution and recorded a very damaging remark in the Visitors' book about Mr.Swaminatha Iyer who was then the Head Master of that school?

8. Can the Commissioner kindly obtain the Visitors' book referred to above from Mr.Swaminatha Iyer and put it up for my perusal?

9. The memorialist has the boldness to mention in para 7 of his memorial that he has an unblemished record of service. The Commissioner is requested to offer his opinion about his 'unblimished service' in the light of the three instances cited above.

10. The Commissioner is requested to state whether the appointment of Mr.Swaminatha Iyer as supervisor was made in consultation with the District Educational Officer or was it ever subsequently approved by the D.E.O? If so, a copy of his approval may kindly be put up. If not, can it be said that the appointment is irregular and invalid according to rules?

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11. Does the Commissioner think that Mr.Swaminatha Iyer is justified in sending an advance copy of his memorial direct to Government when there is no provision for the submission of any such memorial? If the Commissioner thinks that Mr.Swaminatha Iyer is wrong what disciplinary action does he propose to take against Mr.Swaminatha Iyer?

CHAIRMAN.

RETRANSMITTED to the Chairman, Municipal Council, Salem.

The particulars called for are furnished below in seriatim:

(1) The Director of Public Instruction, Madras is the appellate authority for a member of the teaching establishment of a school and the Government is the appellate authority for other officers and servants in the Educational department.

(2) There is no provision in the rules relating to appointment and punishments for submitting memorials.

(3) & (4) In his proceedings D.Dis.2288-44 dated 9-10-44 (Copy enclosed) the Inspector of Municipal Councils and Local Boards, Madras has issued instructions that memorials should be forwarded to the Government. Hence the memorial of Sri M.S.Swaminatha Iyer should be submitted to the Government for orders. The Government have now required to forward the petition to them in their memorandum No.18255-B2-46-1-Edn., dated 8-4-46.

(5) There are no records to show that Sri M.S.Swaminatha Iyer was fined Rs.2/- on 30-10-37.

(6) There are no records.

(7) & (8) The visitors book containing the remarks made by the then Commissioner on 14-6-38 is sent herewith. (Please see page 9 of the book)

(9) The remarks were made on his work as Head Master and I am of opinion that this has no bearing on his work as Supervisor of Elementary Schools.

(10) The District Educational Officer, Salem has approved the appointment of Sri M.S.Swaminatha Iyer, as Supervisor of Elementary Schools in his letter L.Dis.1538-38 dated 27-8-38 (Copy enclosed)

(11) The Government have permitted the submission of advance copies to the Government vide note under rule 19 of the rules relating to personal conduct of officers and servants under Municipal Councils) Hence no disciplinary action need be taken against Sri M.S.Swaminatha Iyer.

COMMISSIONER.

ss. 2.4.p.

Copy of letter L.Dis.No.1538/48 dated 27-8-38 received from the District Educational Officer, Salem.

M.S.SWAMINATHA IYER, Secondary Grade Headmaster, Ponnammapet Boys School may be appointed as Supervisor of Elementary Schools.

(TRUE COPY)

Copy of Inspector of Local Boards and Municipal Councils' D.Dis.No.2288/44 dated 9-10-44.

Sub: ESTABLISHMENT-Municipal Councils and Dt.Boards-Memorials and petitions addressed to Government-withholding of-Modification of the instructions issued.

In supersession of the instructions issued in this office D.Dis.No.802/43 dated 8-4-43 to the Presidents, district boards and the executive authorities of municipal councils not to forward to the Inspector review petitions addressed to Government against the orders of the Inspector passed on appeal but to return them to the petitioners concerned stating that no second appeals lie to Government the following instructions are issued.

Under rule XXI of the rules relating to the submission and receipt of petitions and other papers of the same class addressed to Government Presidents, District Boards and Chairman, Municipal Councils are vested with discretionary power to withhold petitions addressed to Government through them only in cases when a petition is an application for pecuniary assistance by a person manifestly possessing no claim and when a petition relates to a subject on which those authorities are themselves competent to pass orders and no previous application for redress has been made to them. All other petitions should be forwarded to the Government or the other authorities to whom they are addressed.

Sd/- xx xx xx
For Inspector.

/True copy/

. The present
against the rules and orders of
ment. memorial deserves to be with-held.
Since the Government have called for it, I am forwarding the same with the following remarks.

2. Coming to the merits of the case, it is clear that th claims of the memorialist 'his prior acting service as Supervisor of Elementary Schools' were lost once for all when the L.T. was appointed and confirmed as Supervisor reverting the memorialist as Assistant in the Municipal High School, G.O. No.Ms.1988, Education, dated 2-9-1939 did not say that L.T. should be appointed overlooking the claims of the probationer for the post of Supervisor of Elementary Schools. It is only a concession by the Government to appoint L.Ts. as Supervisors on Rs.45/- With reference to this Government Order, the Commissioner appointed one L.T. as Supervisor of Elementary Schools and confirmed him as such reverting this memorialist, a probationer. The memorialist as a probationer, should have preferred an appeal under rule 22 of G.O.No.2342, L.S.G. dated 2-6-36 and have his grievances redressed then itself. Having failed to do so, he had lost all his claims for the post.

3. In the year 1944 when Mr. B. Abraham was selected for the Supervisor's Post, the memorialist absolutely had no right or claim for the post for the reasons stated in para 2 above. Hence the question of memorialist being on Medical leave has no concern here. The post of a Supervisor is a selection one and the seniority of the person is not the criterion for filling up the post. As such, the memorialist's seniority in service or in pay has no concern here. Hence he has no claim against the appointment of Mr. B.Abraham as Supervisor of Elementary Schools. Mr. Abraham, Headmaster of a Municipal Elementary school was appointed as supervisor on 18-8-44. Five months later i.e. on 19-1-45 Mr. M.S. Swaminathan who was on medical leave produced a certificate of Physical fitness but was posted by the then Commissioner as Headmaster of a higher elementary school. If Mr. Swaminathan had any claim for the post of Supervisor he should have preferred an appeal within two months' time against the Commissioner's Order appointing him as Headmaster. He neither protested nor appealed against the Commissioner's order appointing him as Headmaster. He neither protested nor appealed against the Commissioner's order but preferred to serve as Headmaster while Mr. Abraham continu to act as Supervisor till 1-5-45 (for about three months a 10 days after Mr. Swaminathan joined duty). Mr. M.S. Swami nathan thus lost even his doubtful claims to the post by his failure to appeal in time. As such, he cannot have claim for the said post at this stage. Here it may be mad plain that the orders of the Commissioner appointing the rialist as Headmaster of an Elementary school on his ret to duty from Medical leave were based on the report made the Educational Authorities and in conformity with the 2 to rule 21 of G.O.Ms.2342, L.S.G., dated 2-6-36, as memorialist was not only physically unfit to hold the p a supervisor, but also reported to be unsuitable to hol said post by the Educational Authorities.

P.T.O.

is not in the interest of the
the face of the reports receiv Educa
rities against the memorialist. rther, the action of the Commissioner in re-appointing the memorialist who was declared physically unfit for out-door work is quite improper in the circumstances of this case.

5. The reasons adduced by the memorialist are not true to facts. He was found to be unsuitable for the post by the Educational Authorities. He was remarked to be lethargic and indifferent in his work by the Commissioners and Deputy Inspectors of schools. There are also records to show that he was fined more than once. As such, his statement that he is having an unblemished service is quite incorrect. I also personally feel and concur with the Educational Authorities that the memorialist is quite unsuitable for the post and he cannot perform the onerous duties of a Supervisor of Elementary Schools in out-door work. He is physically unfit even to ride on a cycle which is essential for the discharge of his work as Supervisor.

6. The attitude taken by the memorialist in making unwarranted remarks in para 8 of his memorial about the orders passed by the Director of Public Instruction, deserves to be viewed with contempt.

7. The memorialist has lost all his opportunities provided under the rules to have his claims established by preferring appeal then and there in time to the appellate authorities. The present memorial deserves no consideration at the hands of the Government and it may therefore be summarily rejected.

My query dated 18-5-46 to the Commissioner regarding this memorial and his reply C.3.547/46, dated 16-7-46 and my remarks dated 18-7-46 thereon are also sent herewith for favour of perusal of Government.

P. Rathnasami Pillai

CHAIRMAN,
Municipal Council,
Salem.

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

---

surprise vi at abo A.M. All the teac
including the Head Master working in the main buil
were found doing nothing. When questioned, the Head Master M.S.Swaminathan explained that to-day being Saturday, was devoted exclusively for extra-curricular activities. This explanation was proved to be false by a reference to the time tables of the different classes. The Head Master again wished to escape by saying that the teachers were engaged in preparing conduct sheets. I went round from class to class and on enquiry I found that none was getting particulars for conduct sheets from pupils during the day. The Head Master's conduct speaks for itself. He is fined Rs.2/- this time and warned to see that he and his assistants faithfully discharging their duties as per time table.

Sd./- S.Devagnanam,
Commissioner.

Despatched
30 Oct. 37.

To
Head Master, Ponnammapet Boys School
Copy to A2, Supervisor and D.I. of Schools.
Copy to Cashier.

/TRUE COPY/

L.Dis.16569-B2-39.

SALEM MUNICIPAL OFFICE,
Memo. 23-7-39.

Sub:- Education - Elementary - Shevapet New Boys School - inspection remarks - fine levied.

--

The Head Master of the Shevapet New Boys School and the assistant handling III Standard in the same school are fined Re.1/- each for their indifference in work as remarked by the D.I. of Schools in his inspection report dated 21--6--39.

Sd./- T.A.Lakshmana Pillai,
Commissioner.

To
Head Master and Assistant.
Copy to A2 and Supervisor.

/TRUE COPY/

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the face of the reports receiv Educa
rities against the memorialist. urther, the action of the Commissioner in re-appointing the memorialist who was declared physically unfit for out-door work is quite improper in the circumstances of this case.

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6. The attitude taken by the memorialist in making unwarranted remarks in para 8 of his memorial about the orders passed by the Director of Public Instruction, deserves to be viewed with contempt.

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P. Rathnaswami Pillai
CHAIRMAN,
Municipal Council,
Salem.

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

---

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Sd./- S.Devagnanam,
Commissioner.

Despatched
30 Oct. 37.

To
Head Master, Ponnammapet Boys School
Copy to A2, Supervisor and D.I. of Schools.
Copy to Cashier.

/TRUE COPY/

L.Dis.16569-B2-39.

SALEM MUNICIPAL OFFICE,
23-7-39.

Memo.

Sub:- Education - Elementary - Shevapet New Boys School - inspection remarks - fine levied.

--

The Head Master of the Shevapet New Boys School and the assistant handling III Standard in the same school are fined Re.1/- each for their indifference in work as remarked by the D.I. of Schools in his inspection report dated 21--6--39.

Sd./- T.A.Lakshmana Pillai,
Commissioner.

To
Head Master and Assistant.
Copy to A2 and Supervisor.

/TRUE COPY/

is not ning the levy of in the case of Mr.Saminatha Aiyer are not available in the Municipal office.

The Commissioner is requested investigate the matter and report whether the records can now be traced in the light of this information. If the records are still untracable, the clerk responsible for such a state of affair must be adequately punished.

The municipal Office seems to b be conniving with Mr.Saminatha Ayyar be

P. R. Pilly
Chairman.

C3.547/46.

SALEM MUNICIPAL OFFICE
DATED 16-7-1946.

RETRANSMITTED to the Chairman, Municipal Council, Salem.

The records relating to the fines levied on M.S.Swaminatha Iyer in 1937 and 1939 are not available in this office now. The fines have not been recovered from him for reasons not known. M.S.Swaminatha Iyer who was called upon to explain for not deducting the fine of Rs.2/- has informed that the fine order was modified and that he was severely warned. In the absence of the records, his statement cannot be accepted He has omitted to deduct the fine. In my opinion, M.S.Swaminatha Iyer is physically unfit to hold the post of Supervisor. I have already said this even earlier. He cannot ride a bicycle.

As the Government, have sent more than one reminder, I request that the memorandum of M.S.Swaminatha Iyer may be forwarded to the Government with your remarks as early as possible.

COMMISSIONER,
SALEM MUNICIPALITY.

ss/16.7.p.

R.S. 16/7

SALEM MUNICIPAL OFFICE
DATED 18-7-1946.

FORWARDED.

The work and conduct of Sri M.S.Swaminatha Iyer, the memorialist were not at all satisfactory as will be seen from the records sent herewith. In 1937, he was working as Headmaster of an Elementary School. When the then Commissioner made a surprise visit to the school, he found that the Headmaster and the other teachers were doing nothing. The Head Master gave a false explanation that extra curricular activities were done by them on that day. The Head Master was fined Rs.2/-. Sri M.S.Swaminatha Iyer was also fined Re.one in 1939, for indifference in work, as remarked by the Deputy Inspector of Schools, in his inspection report. Sri M.S.Swaminatha Iyer did not deduct the fines in the pay bills prepared by him. Now he gives an explanation that the order fining him Rs.2/- was afterwards modified and that he was warned instead. In the absence of proper records his statement cannot be relied upon. The above facts reflect upon his conduct that he is not a reliable person.

He is physically unfit for out-door work. He was bed-ridden due to illness for a long time and when he recovered from the illness he could not ride a bicycle. The Schools are situated in all parts of the Town and the Supervisor of Elementary Schools is expected to visit several schools daily. Sri M.S.Swaminatha Iyer cannot visit several schools daily without on account of frail structure which does not permit him to do out-door duties. His supervision is not also ~~be~~ effective. Hence he is not a suitable person for the post of Supervisor of Elementary Schools on account of his mis-conduct.

CHAIRMAN,
MUNICIPAL COUNCIL,
SALEM.

ss/18.7.p.

24

The humble m
after referi as 'the
Ponnammapet Hi r Elementary
Municipality.

24

p 397 (aw)
p 298-ds.

This is a memorial against the order of the Commis
Salem Municipality No.C3-11824-45 dated 7-1-46 based on the
proceedings of the Director of Public Instruction, Madras No.
Dis.4189-45 dated 6-12-45, reverting the memorialist from the
post of the Supervisor of Elementary Schools to his permanent
post as Headmaster, Higher Elementary Boys' School.

2. The memorialist is a permanent Secondary Grade Teacher
Salem Municipality, in the scale of Rs.30-3/2-45-2/2-55. In
1938 when the post of the Supervisor of Elementary Schools wa
vacant, due to the permanent man being absent on other duty,
the appointment committee of the Municipal Council, selected
the memorialist as the most fitted man for the post and with
the approval of the District Educational Officer appointed
as a Secondary Grade Probationer in the Supervisor's post. The
memorialist acted in the post from 1-9-38 to 3-12-38 for a
period of 3 months. He justified the selection and dischage
his duties efficiently and when the L.T. Candidate joined ba
as Supervisor the memorialist was reverted to his permanent
post as Headmaster.

3. Again in 1939 when the post of the Supervisor f
vacant, the memorialist was, in view of his efficiency,
rity, experience and probation in the post selected to
ciate again in the post as Supervisor which he held fro
to 24.1.40. Thus the memorialist had established his
to the post not only by his seniority but by his merit
work in the selection post, though it was till then in
by the Municipality to be held by an L.T. Subsequently
G.O.No.1988 dated 2-9-39 and M.C.R.No.1296 dated 18-10-1
the Municipal Council resolved to appoint an L.T. as Supe
of Schools and when an L.T. was available to act in the pos
the memorialist had necessarily to revert, reserving always
his right to be appointed to the post when the Council deci
to appoint a Secondary Grade trained man for it.

p 39 (h)

4. Meanwhile when L.Ts were not readily available and
willing to work as Supervisor on the scale of pay fixed, t
Municipal Council in its Resolution No.363 dated 13.7
decided to appoint a Secondary Grade teacher as Superviso
schools, and the post was converted to one of Secondary

5. At the time when the post was converted into a
dary Grade one, and the appointment of one Mr.B.
Secondary Grade teacher was made, the memoriali
medical leave. Even then, the appointing author
sioner, recognised the claims of the memorialis
to the post of the Supervisor and in the very
of his order No.C3-1480-44 dated 16-8-44 has s
Swaminathan, a Secondary Grade teacher, who ha
as Supervisor is on medical leave, B.Abraham
Supervisor". This order was based on the Appo

p 81 (B)

one as contemplated in rule 7
establishments under Municipal
levant rule was not quoted in the
r unequivocally states that
the post only so long as the
unwell.

order, the preamble to
Mr.B.Abraham was to act
the Director of Public Instruction
in his proceedings No.4189-45 dated 6-12-45 necessarily calls
for certain submissions by the memorialist. The Director of
Public Instruction observes that the memorialist has lost all
claims to the post (1) when an L.T. was confirmed in the post
and (2) when the memorialist did not appeal against the
Commissioner's order appointing Mr.B.Abraham in August 1944
As regards the first point, the memorialist had absolutely
no grievance when an L.T. was appointed and confirmed in a
vacancy intended and created and reserved for L.Ts only.
Vide M.C.R.No.160 dated 16-3-1936 and No.1239 dated 18-10-
A probationer does not, as per rules, lose his probationar
rights when a better qualified or senior probationer in the
sanctioned post and cadre is confirmed. His probationary
rights continue to exist and are revived immediately wh
candidate equally or less qualified than the probationer
appointed and the post is converted into that of his own ca
The finding that the memorialist has lost his probationary
rights for the supervisor's post is wrong and opposed to th
spirit of the rules and a probationer does not lose his cl
as probationer until and unless he is declared by a Pro
ceedings. As regards the second point that the memorialis
should have appealed against Mr.B.Abraham's appointment in
August, 1944 the memorialist begs to submit as follows:-
There was no necessity for appeal since the memorialist's
claim to be appointed to the post was recognised beyond
doubts by the appointment committee and the appointing autho
rity the Commissioner in his proceedings No.1-44 dated
16-8-44. The memorialist is asked to appeal against an order
The authority - which has recognised his rights and suitability for the post
but is unable to appoint him since he was on leave.
To have appealed against an order which clearly says that
the memorialist is the man fit for the post and Mr.
B.Abraham is appointed only so long as the memorialist is
medically fit would have been superfluous and
would have been rejected as unnecessary in the light of the
temporary nature of the appointment of Mr. Further
this order No.1480 dated 16-8-44 was not communicated
to the memorialist. Thus the reasoning of the Director of
Public Instruction is not justified by facts.

7. In the light of the circumstances above the
reversion of the memorialist ordered in the Director of
Public Instruction's proceedings No.4-45 com-
municated in No.11824 -45 dated 7-1-46 is quite
opposed to the rules. The Director
observes in his above order that Mr.
probationary rights, as he has been appo
tion with the District Educational Offi
at issue is not whether Mr.Abraham acquired
probationary rights or not, but whether he can
a senior probationer to the memorialist. Though
may count his probation against another for
the post, he is in the face of the arguments
previous paragraphs any day less ted and far

to the memorialist for the following reasons also:-

(1) The memorialist is a permanent Secondary Grade teache with nearly 20 years of service. His pay is Rs.53/- now in the scale of Rs.30 to 55 while Mr.Abraham's present pay is only Rs.45/- in the same scale and he has a service of only 13 years.

(2) When the appointment in 1938 was made to the selection post of the Supervisor Mr.Abraham was also then in se vice and the appointment committee after considering the merits of all the Secondary Grade teachers came to the conclusion that the memorialist was the best fitted person for the post of Supervisor, which was more onerous and carried additional responsibilities than that of the headmaster though on the same scale of pay.

(3). Even when Mr.Abraham was appointed in 1944 as Supervisor the appointment committee and the Commissioner have unequivocally and clearly stated that the memorialist was the proper person to get the post and that Mr.Abraham's choice was only a second best.

(4) The memorialist has an unblemished record of service under the Municipality for the last 20 years. But on the other hand Mr.Abraham has got only 13 years of service to his credit and was suspended once for 2 months for misbehaviour. These will be borne by the record in the service register of Mr.Abraham.

(5) During the period the memorialist officiated as Supervisor he had discharged his duties quite efficiently and none of the Supervising Officers or the Municipal Council or the Commissioner had any occasion to find fault with his work.

8. The memorialist, therefore, submits that the appellate authority, the Director of Public Instruction did not appreciate correctly the status of the memorialist and has rendered an injustice in reverting the memorialist from the post of Supervisor to his permanent post. His proceedings show that he has consulted the Divisional Inspector of Schools who is not the appointing authority or the authority against whose orders the appeal of Mr.Abraham was preferred and appears to have acted upon extra-judicial information. This consultation of the Director of Public Instruction with the Divisional Inspector of Schools is not contemplated by the rules and the order cannot therefore be held as an unbiased one.

9. The memorialist therefore prays that the Government may be pleased to call for all the connected records and files, appreciate the superior claims of the memorialist and restore him to the post of Supervisor of schools which is legally and rightfully due to him and thus render justice.

The memorialist begs to remain,
Sir,
Your most obedient servant,

Salem,
17--1--46.

M. Swaminathan

~~Encs. 2~~

Copy submitted direct to Government to save delay.

31

(17)

EXTRACT FROM THE PROCEEDINGS OF THE APPOINTMENT COMMITTEE MEETING HELD AT 8-15 A.M. ON 13-8-38 AT THE MUNICIPAL OFFICE, SALEM.

RESOLUTION NO.14.

Read Office note to appoint a Supervisor for Elementary Schools vice P.Manickam Pillai, transferred to High School.

RESOLUTION:- M.S.SWAMINATHA IYER, THE SENIOR SECONDARY GRADE TEACHER IS APPOINTED AS SUPERVISOR. HE WAS RECOMMENDED BY THE DIRECTOR OF PUBLIC INSTRUCTION ONCE BEFORE IN DIS. NO.429/36 DATED 5-5-36.(See G.O.5185 L & M Dated, 14.12.35).

SD/- P.Rathnaswami Pillai,

3/1

/True copy/

SALEM MUNICIPALITY.
EXTRACT FROM THE PROCEEDINGS OF THE MUNICIPAL COUNCIL, SALEM PASSED AT ITS MEETING HELD ON 13-7-44.

M.C.R.No.363.

Read Office note soliciting the sanction of the Council to appoint a Secondary grade trained teacher as Supervisor of Elementary Schools in the scale of Rs.30-3/2-45-2/2-55 in this Municipality instead of a Supervisor with the qualification of B.A.,L.T., on Rs.45/- as sanctioned in M.C.R.No.1296 dated 25.10.39.

Note:- Candidates with the qualification of B.A.,L.T., are not willing to take up appointment on Rs.45/- The post is kept vacant. A secondary grade teacher may be appointed as Supervisor of Elementary Schools.

SANCTIONED.

SD/- P.Rathnaswami Pillai,
Chairman,
Municipal Council, Salem.

/True copy/

3/1/46.

32

10/21/6

E & P.H. Deptt

Memo No 18255 B2-4 Edn d 26.8.46

Municipal council, Salem - Supervisor of ele: schools - Appt - M.S. Swaminatha Ayyar - ~~A~~ Petition -

The petition dated 17-1-46 of Sri M.S. Swaminatha Ayyar, Headmaster, Ml. H.E. School, Salem, together with the Endts of the Commr., Salem Mty and the C.D.E, Salem, are forwarded to the D.P.I. for early remarks.

BRH
26/8/46

To
the D.P.I.
(with petition & Encls in orgl to be retd with the reply)

pp9 - 29 CF

Bn (18)

Education Department.

From

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

To

The Secretary to the Government of Madras,
Education and Public Health Department,
Fort St. George, M a d r a s.

R.C.No. 5377-B5/46 dated 26th September, 1946.

Sir,

Elementary Education--Municipal Council, Salem --
Supervisor of schools--Appointment--Memorial of
M.S. Swaminatha Iyer to Government.
Reference:-Government Memorandum No. 18255 B2-4
Education dated 26..8..1946.

ASST. SECRETARY TO GOVERNMENT
602
10 OCT 1946
EDUCATION AND PUBLIC HEALTH DEPT.

(Y) pp17-18 ante

p 39 (h)

p 32 ante

I agree with the remarks offered by the Chairman, Municipal Council, Salem. As pointed out by the Chairman, the G.O. No. Ms. 1988-Education dated 2.9.1939 did not order that L.Ts. should be appointed overlooking the claims of men who were on probation. The appellant was removed from the post of a Supervisor and a L.T. was appointed in his place. He was out of the Supervisor's job for nearly 4 years during which period he did not appeal against the appointment of a L.T. in the post. Therefore he lost all claims for his previous probationary service.

p11 ante

3 The Commissioner's arguments that the appellant retained his rights of probation when Abraham was appointed in his place are ~~in~~untenable. If for any reason the appellant could not be appointed, the substitute should have been appointed only as a temporary measure without rights of probation. When Abraham was appointed the appellant did not appeal at all. (Y) It was open to the Commissioner to appoint the appellant though on leave and to appoint Abraham to act temporarily as a substitute. But this was not done. Hence it has got to be held that Abraham was appointed on probation.

B/61

Q

(Y) The appointment shd. be made by the Appointing Committee

pp17-18 ante

In the opinion of the Chairman and the Educational Officers the appellant is not suitable for the post of a Supervisor of schools.

P.T.O.

The present memorial of the appellant deserves no consideration at the hands of Government and it may therefore be summarily rejected as recommended by the Chairman of the Municipal Council.

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

R. Narasimha

For Director of Public Instruction.

ks. 7. x.

RR
8/x

B ✓ (19)

R.C.No.5377-B.5/46

ASST. SECRETARY TO GOVERNMENT
74538
4 - DEC 1946
EDUCATION AND PUBLIC HEALTH DEPT.

Office of the
Director of Public Instruction,
Madras, Dated 2-12-1946.

From

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

To

The Secretary to Government,
Education and Public Health Department

Sir,

Sub: Elementary Education - Municipal Council, Salem - Supervisor of Schools - Appointment - Memorial of Sri M.S.Swaminatha Iyer to Government.

p 32 ante Ref: Govt. Memo.No.18255-B.2.4 Edn dated 26-8-1946 and my
pp 33-34 ante reply RC.No.5377-B.5/46, dated 26-9-1946 thereto

---

I have the honour to request you to kindly let me know when orders of Government may be expected in the matter.

for Director of Public Instruction.

RR 3/12

36

Petition for appointment as Supervisor of Ele. Schools – Rejected.
From Sri M.S. Swaminatha Iyer d 17.1.46.
Endts of the Commr, Salem Mpty No C3.547/46 d 31.1.46
" of the D.P.I No 5377-B5/46 d 26.9.46

Edn d.
The Commissioner Salem Mpty is requested to inform Sri M.S. Swaminatha Iyer, Headmaster, M.l. Higher Ele. Boys' School, Ponnapet, Salem that his petition for appointment as Supervisor of Ele. Schools under the M.l.d. Salem is rejected.

To the Commissioner
Salem Mpty (with the endts)
C.M.C

37 Ed & PH Dept

C. no 18255 B2/46
pp 25-29 cp
pp 9-11 cp
pp 33-34 cp

Estt. – M.l.d., Salem – Sri M.S. Swaminatha Iyer – Petition for appointment as Supervisor of Ele. Schools – Rejected.

From Sri M.S. Swaminatha Iyer d 17.1.46
Endts of the Commr, Salem Mpty No C3.547/46 d 31.1.4
" of the D.P.I No 5377-B5/46 d 26.9.46.

Order 12 Edn d. 14.1.1947.
MS

The Commissioner Salem Mpty is requested to inform Sri M.S. Swaminatha Iyer, Headmaster, M.l. Higher Ele. Boys' School, Ponnapet, Salem, that his petition for the restoration of his appointment as Supervisor of Ele. Schools under the M.l.d. Salem is rejected.

To The Commissioner
Salem Mpty (with the endts)
Also C.M.C
" The D.P.I.
S/C.

25.11.46

25/11/46

B.M.
~~26/11/46~~
20/12/46

Edn & P.H. Deptt (B.2.)

(21)

pp 9-11 g

C.No. 45317/B2 From the Commissioner, Salem Municipality, ~~Roc~~ No. 547/46 dated 31-1-1946.

--

Supervisor of elementary schools--Claims to the post.

The Government have prescribed qualifications and scale of pay for Supervisors of elementary schools. Under the orders of Government a Supervisor should hold a trained teachers' certificate of the collegiate or of the Secondary grade. He should be allowed pay in the scale of Rs 30--55. In 1939, the Government authorised Municipal Councils to employ collegiate trained teachers as Supervisors and to grant them an initial pay of Rs. 45 in the time-scale of Rs 30-55.

p 55 g Examined Draft

Bk 157

14-10-35

(h)

p 3 g (h)

2. The post of Supervisor under the Salem Municipal Council was open to Secondary grade teachers also till 1-12-1939. One, Swaminatha Iyer was officiating as Supervisor of schools till that date and had put in an acting service of about 10 months in the post. From 1-12-1939 Council resolved that the post should be open for L.T. teachers alone in accordance with G.O. No. 1988 Edn, dated 2-9-39. When an L.T. was apptd. to the post, Swaminatha Ayyar was reverted to his permanent appointment as headmaster of an elementary school.

p 7 g

p 3 g (H)

3. In July 1944 the Council again resolved to recruit secondary grade teachers to the post of Supervisor, as L.T. teachers apptd. to the post did not either join or stick to the post. The question arose whether Swaminatha Ayyar should again be appointed to the post or not. As he was on medical leave, the appointment committee selected one Abraham for the post. Strictly speaking Swaminatha Ayyar should have been given a paper appointment and Abraham appointed as Supervisor in his absence. This the Committee failed to do.

p 31 g

pp 61-62 g (B)

4. When Swaminatha Ayyar returned from leave in January 1945, he was posted as headmaster of an elementary school. The Commissioner ordered this posting on his own responsibility much against the will of the teacher so as to find out whether he had picked up sufficient health for out-door

p 10 g

PTO

rk. In April 1945 the Commissioner posted Swaminatha Ayyar Supervisor reverting Abraham. The latter appealed to the irector against the reversion. The D.P.I. ordered the renstatement of Abraham and the reversion of Swaminatha Ayyar. p 8 cf

5. In his petition in the C.F. Swaminatha Ayyar pleads hat he should be restored to the post of Supervisor. The ommissioner has explained the ~~full~~ facts of the case in full. He has lso shown how the Director's orders are incorrect and recommends that they should be set aside. p 9-11 cf

6. Firstly the question is whether the appointment Committee was justified in not having given a paper appointment to Swaminatha Ayyar especially as he was a probationer in the post. If the Committee doubted his ability to discharge the uties of the post it should have first arranged to terminate his robation before selecting Abraham. As pointed out by the ommissioner, Abraham was selected by the Committee as Swaminatha yyar was on leave. It, therefore, follows that the Committee as recognised the probationary rights of Swaminatha Ayyar. In view of this the action of the Commr. in having posted Swaminatha Ayyar, again as Supervisor of schools reverting braham was in order. A on p 10 cf B/61-63

7. The D.P.I. has urged four reasons for reverting wamınatha Ayyar and reinstating Abraham. The Commr. has ~~met~~ met all he objections of the Director. It appears that the reasons dduced by the Director cannot hold good in the present case. It ay be noted that the Director is the appellate authority only or teachers in ely. and secondary schools. It appears that the ower to dispose of appeals relating to posts of Supervisors of chools is vested in Govt. For the reasons explained ~~above~~ above there eems to be a case for revising the orders of the Director. He may be onsulted u.o. in the matter. p 11 cf p 2-36 cf Examiner's BK/57A

8. In his covering letter the Chairman raises ertain objections against the points mentioned by the Commr. n his letter. It does not appear that the objections of the airman are valid. The fact that the letter of the Commissioner ated 31-1-1946 is forwarded to Government by the Chairman in ugust 1946 seems to indicate that there has been some difference p 12 cf

PTO

---

of opinion between the Commissioner and the Chairman in regard to the claims of the teacher Swaminatha Ayyar. 22

Plee see below / 9. The file may be sent to the D.P.I. u.o. for remarks.

24.8.46

24/8/46 S

No. Let a draft memo calling for the D.P.I.'s remarks, be issued. A copy of the Commr's report ... also be sent.

26.8.

~~The~~ Issue draft Memo on page 32 CF ~~is~~ ~~for approval~~.

26/8/46

p 32 CF

p 33 CF

60217.

(Issued as Memo No. 15255 B-2- 4, dd. 26.8.1946.)
From the D.P.I.No. 5377 B. 5.46, dd. 26.9.46.

The Director does not agree with the Commissioner. He upholds that Swaminatha Ayyar has no claims to the post of Supervisor of Schools and that even if he had any, he has lost that by not preferring an appeal against the appointment of Abraham as Supervisor of Schools. As already pointed out in paragraph 3 of the note on page 1 ante, it is the Appointment Committee which has ~~committed the fault~~ erred in not giving Swaminatha Ayyar a ~~the~~ paper appointment. It may not be proper to penalise the teachers for the fault of the Appointment Committee. Further, from the Commissioner's remarks on page 10 c.f. it may perhaps be assumed that Swaminatha Ayyar did not prefer any appeal as he would have thought that the Commr. would set right the mistake with the least possible delay. In the circumstances, it is for orders whether the position taken up by the Commr. should be ~~withheld~~ upheld (in which case Mr. Swaminatha Ayyar should be restored to his appointment as Supervisor of Schools) or whether the contention of the Director ~~xxx~~ should be accepted (in which case the representation of Mr. Swaminatha Ayyar should be ~~dismissed~~ rejected).

p 33 CF

At the same time it is quite clear that the intention was to safeguard Swaminatha Ayyar's rights.

P

R

I think the position taken by the Commissioner should be upheld & the Director's order should be set aside.

CK 14.10.46

14/10/46

15/10/46 S

As indicated at 'P' on p. 2 ante it is doubtful if the D.P.I. was competent to act in appeal in this case. We may interfere either in that position & to set aside the orders, or to interfere ~~to~~ under Rule 8(2). The latter, however, seems strictly to apply only in the case of "erring with the conduct of any officer" & we may therefore, in this case, accept the former.

W.S.
16/11/46

H.S. (Edn.)

18/11/46.

This is a simple case. If Mr. Swaminatha Iyer had claims and had a grievance on the appointment of Mr. Abraham, he ought to have filed an appeal against the appointment of Mr. Abraham. On the other hand, what is found in the file is that Abraham was appointed as Supervisor of the Municipal Schools and after ~~a~~ about six months of service as Supervisor, the Commissioner removed Abraham from that office and posted Swaminatha Iyer on which Mr. Abraham has appealed. And so, we are sitting in judgment of an appeal which Mr. Abraham has filed. If Mr. Swaminatha Iyer has had any case, he would have preferred his appeal earlier ~~and that is not what we see from the file and~~ there is nothing in the file to show that he has had any previous right by which he has any claim to this appointment and so, I think the appeal ⊗ of Mr. Abraham must be allowed.

TSA
22-11-46

⊗ The covering file contains a petition from Swaminatha Iyer alone

A draft order is submitted for approval.

25.11.46.

25.11.46

OSM
27/11/46

S Resubmitted -

We are not now sitting in judgment on any appeal from Mr. Abraham; we have to decide on a representation was made by Mr. [illegible]

pp 25-29 CF

45317-B2
16/12/46

(23)

m/29

against the orders of the D.P.I. allowing an appeal from Mr. Abraham. He has sent that representation in time (he sent it on 17.1.46 to the Commr. who forwarded it through the Chairman on 31.1.46; the Chairman took over 6 months to send it to Govt.).

p. 29 CF

p 9 CF

pp 17-18 CF

On the question why Mr. Swaminatha Iyer failed to appeal against the original order appointing Mr. Abraham, attention is invited to 'P' & 'R' at p. 3 ante; the notes there cover the point also as to the rights which Mr. Swaminatha Iyer has, & which had been affected.

W.S.
5/12/46

H.S. (Edn.)

The contention of the D.P.I. may be accepted & the appointment of Mr. Abraham upheld.

TSA
14-12-46

SECRETARY, EDN. AND P. H. DEPT.
16 DEC 1946
GOVERNMENT OF MADRAS

The draft below.

For appl..

16.12.46

OSM
20/12/46

S W.S.
21/12/46.

SECRETARY, EDN. AND P. H. DEPT.
23 NOV 1946
GOVERNMENT OF MADRAS

[illegible]

Before I

[illegible] by [illegible] I
[illegible] a [illegible]
[illegible] of the

[illegible] position of the
D.P.I. & the [illegible].
Are we [illegible] this [illegible]
[illegible] the A.P.I. [illegible]
[illegible] dealt with
the [illegible] [illegible]
offered [illegible] [illegible]
dealing with [illegible]
officer [illegible] we
are [illegible] [illegible] of
A | services or [illegible]
the officer [illegible]
[illegible] [illegible] [illegible]

6236
BK 157 A

2

23081 A/40
-1 d
6-7-40

5183 A/40-2
30-3-40
9(3) or 8(2)

Rule 8 of the rules relating to the appointment and punishment of officers & servants of municipal councils provides for an appeal against all orders of discharge, or reversion to a lower post of a person appointed on probation. Under sub rule (1) of this rule the appellate authority is the Director of Public Instruction, if the order relates to a member of the teaching establishment of a school. Here the case relates to the post of supervisor. The Director, as already pointed out in the notes, is not competent to pass orders on the appeal preferred by Abraham. He should have submitted the case to Government for orders. Presumably under the impression that he was the appellate authority for cases relating to posts of Supervisors also, the Director upheld the case of Abraham. The question now for consideration is whether the D.P.I.'s action should be ratified or nullified. In the latter case the Government can treat the present representation as an appeal to them and pass orders on the appeal setting aside the proceedings of the Director.

2. Under subrule (2) of rule 8 the Govt. can call for the records of the case and pass such orders as they may deem fit. In this view, the communication from Mr. Swaminatha Ayyar may be treated as a representation to Government against the orders passed by the D.P.I. on the appeal of Mr. Abraham. The Govt. have power to admit the claim put forward in the representation of Mr. Swaminatha Ayyar and modify the Proceedings of the Director accordingly.

3. In any case further action on the part of the Govt. will become necessary only if the orders of the Director are to be interfered with.

However as the D.P.I. has passed orders on the case as the appellate authority, the view at 'A' in the secy's note may be taken.

BPM
[illegible]/6/46

[illegible]

But the difficulty is to see what [illegible]

4/

Attention is solicited to rule 8(2) of the rules relating to appointment and punishment of employees of municipal councils on page 4 of (X). When the rule was introduced the intention was that Government should interfere in disciplinary cases where a punishment was imposed. In 1941 the Inspector brought to the notice of the Government a case where an employee of a local body was leniently treated in the matter of punishment. He suggested that Govt. should have power to interfere in all cases whether the punishment was imposed or not. His recommendation was accepted and the rules were amended suitably. The present form of rule 8(2) was adopted with a view to empower Govt. to interfere in all cases. In the circumstances it appears that Govt. can interfere in the matter and pass orders underx sub rule (2) of rule 8 of the rules relating to appointment and punishment of employees of municipal councils.

(X)

p. 1 of Govt

(C) 1857 LA / 8.7.41

(G3)

8/ 9.11.46 Attention is also invited to the Memos at (J)

11/11/46 S

There must be, elsewhere, a general power of revision vested in [illegible] in respect of the cases — which is [illegible] [illegible] to [illegible] memorials if [illegible]. May be examined further. But [illegible] [illegible] to [illegible] [illegible] case meanwhile As an alternative power is available in this particular case we may take advantage of this. Order accordingly.

The [illegible] [illegible] this office to delete [illegible] to 'disciplinary cases'.

16/11/46

G

(93)

pp 236-237

PR 157 A

Rule 8(2) of the rules relating to the appointment and punishment of officers and servants of municipal Councils empowers the Govt. to call for the records ~~of the case~~ relating the enquiry into the conduct of an officer and pass such orders as they deem fit. It is not clear whether under this rule the Govt. can set aside or modify the orders passed by the D.P.I. on appeals preferred by teachers.

A

1 4 [illegible]

Secretary has recorded the [illegible] that the matter should be examined further. The L.A. Dept. may be requested to note on the question raised and to consider the desirability of amending the rules if necessary. (Any amendment made to the rules relating to appointment and punishment of servants of municipal Council will not only apply to teachers but to the other employees of M. cls as well. A similar amendment may be necessary in the case of Dt. Bd. servants.)

B

2 The file may be sent to L.A. for further action

[illegible] 17.1.47

8/ 17.1.47

21/1/47 LA

[illegible] no 18255-B2-5 / 22-1-47

LOCAL ADMINISTRATION DEPT.
02134
22 JAN 1947
SECRETARIAT, [illegible]

24/1/47

L.A. Deptt.

With reference to A above, it is submitted that there is no right of second appeal to Govt ~~to Govt~~ in the case of mpl. servants, against ~~over~~ the orders of ~~a~~ a subordinate⊗ appellate authority. Any such representations received from mpl. servants (or local board servants) are usually dealt with under the Petition rules and orders passed. It does not therefore seem

⊗ such as D.P.I., CE(B+D) etc.

X in the back, [illegible]

ecessary to amend the rules as suggested by E&P.H. Deptt.

× B on p 5 ante

28/1/47.

The petition rules referred to above ~~do~~ can not confer on Govt powers which the statutory rules under the D M Act do not give them. ~~So, it is desirable to amend the statutory rules so as to~~ So, if it is desired that Govt shd take power ~~for Govt~~ to call for the records relating to ~~an~~ appeals of mpl servants to subordinate dt-bd authorities and to modify the orders of the subordinate authorities on appeals, the statutory rules ~~will~~ may have to be amended accordingly.

However, if such amendment is made, every case in which an appellant is dissatisfied with the decision of the D P I (or other head of dept concerned) will come up before Govt for decision and the object of vesting the appellate power in heads of depts will be defeated. So, if Govt consider that in any case there has been a miscarriage of justice in the decision of the head of a dept on an appeal, they may call for records and direct the appellate authority (in exercise of their inherent executive powers) to revise his

B on p. 5 ante

7

Legal may be requested to advise in the first instance on the legal question raised at A on ~~p~~ page 5 above.

6/2/47

5/2/47 S

6.2.47

RAwo 2134-16
7/2/47.

Legal.

0 1411
9.2.47

ASSISTANT SECRETARY
10 FEB 1947
LEGAL DEPARTMENT.

Legal Department

Rule 8 (2) confers wide revisional powers on Government and it enables them to revise orders passed by an appellate authority.

20.2.47

S
20/2/47 L.A.

Legal u. 01411/47-1
22.2.47.

LOCAL ADMINISTRATION DEPT.
6177
22 FEB 1947

L.A. Deptt (g)

Please see the ~~note~~ opinion of the Legal deptt. above. In view of ~~Rule 8 (2)~~ this opinion it seems unnecessary to amend the (appointment and punishment) rules as suggested by the E&PH deptt. ~~no further action seems necessary.~~ ~~The papers may be lodged after perusal by~~ With these remarks the file may be returned to the E&PH deptt.

27.2.47

1/3/47

27/2/47

28/2/47 S

26.2.47

E.&P.H.

LAwo. 2134-47-28
1.3.1947

E&PH Dept.

No further action is called for in this file. The papers may be filed with G.O. no 12, Edn 4.1.47.

17262
3 MAR 1947

8/

The Legal have addressed themselves
to the point that Rule 8(2) relates
only to things "relating to the [illegible]
with the conduct of any office or servant".
However, the matter may be
dropped for the present.