

E. & P.H.

(194⁷) Department.

Ms. SERIES.

G.O. NO. 1772 Edn.

Dated 7th August 1947.

[Despatch Abstract.]

Establishment - office of the D.F.I. - Sri N. Balasubramanian -
seniority in the upper Division - relaxation of rule.

Back Papers.

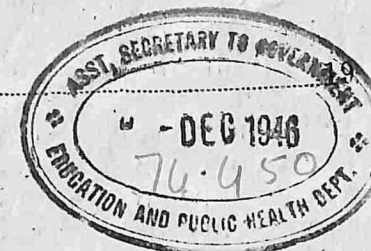
G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Further Papers.

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Education DEPARTMENT. 2

Received



Registered.....19

Subject.

Office of the Director of Public Instruction, Madras -- Certain Clerks -- Emergency appointments regularised -- Fixation of seniority of Sri N. Balasubramanian in the Upper Division of the Office.

ENCLOSURES.

No.

Spare copies.....

R.C.No. 201-F/45.

Station.....M a d r a s., Dated the 2nd December 1946

From (Name) Dr. S.R.U. Saver, M.A., D.Sc., I.E.S.,
(Designation) Director of Public Instruction,
M a d r a s.

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

Sir,

I have the honour to invite the attention of Government to my letter R.C.No.201-F/45 dated 15.6.1945 disposed of in G.O.No.Ms.721-Education dated 4.4.1946 wherein I explained the circumstances under which the order of regularisation of the promotion of the four officiating clerks of my office viz. Messrs. 1. M.R. Duraiswamy, 2. C. Abdul Hamid, 3. N. Balasubramanian and 4. P.V. Ramanish, to the Upper Division was modified and the clerks considered to have officiated in the Upper Division under the emergency rule till 31.3.1945. In the subsequent vacancies that arose in the Upper Division some of them were promoted regularly under the rules. While the petition of these clerks against my order treating their service in the Upper Division prior to 31.3.1945 as emergency promotion was pending with the Government, Sri N. Balasubramanian who is a permanent typist of my office promoted to the Upper Division after having been transferred as a lower division clerk, represented to me that his seniority in the lower division of the office had not been fixed correctly and that his seniority should be fixed with reference to the date of his first appointment as Typist and not as a lower division clerk. As this, I considered, was a doubtful point, I made a reference to Government in the matter in my letter R.C.No.186-F/45

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dated 7.6.1945 soliciting their orders. Government in their Memo. No. 25919-313 Education and Public Health dated 17.9.1945 upheld the contention of the clerk that his seniority in the lower division should be fixed with reference to the date of his appointment as typist viz. 10th July 1937. As the practice in the office was to promote lower division clerks to the upper division in the order of their seniority in the lower division, I considered that a revision of the order of seniority of officiating clerks in the Upper division was called for in view of the Government Memorandum. So I recast the seniority list once again making Sri N. Balasubramanian senior to Messrs. M.R. Doraiswamy and C. Abdul Hamid by treating the officiating service of these two clerks rendered by them in the Upper Division upto 30.9.1945 as one under the emergency rule.

2. New Government in their Order Ms.No. 721 Education dated 4.4.1946, on the petition of Messrs. M.R. Doraiswamy, C. Abdul Hamid and P.V. Ramanath, while upholding my decision and ordering that Messrs. T.V. Venkatesanarayana and S. Arumuga Nadar should be treated as seniors to Messrs. M.R. Doraiswamy, C. Abdul Hamid, N. Balasubramanian and P.V. Ramanath cancelled my office order 52/45 dated 20.4.1945 which treated the service rendered by the clerks prior to 1.4.1945 as emergency service. It therefore follows that my order considering the service rendered by Messrs. M.R. Doraiswamy and C. Abdul Hamid during the period from 1.4.1945 to 30.9.1945 as emergency appointment which was issued in order to concede seniority to Sri N. Balasubramanian with reference to Government Memo. 25919-3 B. Edn. dated 17.9.1945 should also be cancelled. If this is done then the seniority as fixed in the office order No. 110/44 dated 17.8.1944 (copy enclosed by the petitioners) will stand. In which case Sri N. Balasubramanian will lose his seniority as required by Government Memorandum 25919-3 B. dated 17.9.1945 i.e. he will be junior to Messrs. M.R. Doraiswamy and C. Abdul Hamid. Had the position of Sri N. Balasubramanian been known before, his seniority would not have been overlooked even at the time the regularisation of the services rendered by the clerks ordered in Office Order No. 110/44 dated 17.8.44 was taken up. In the circumstances I request that the Government may be pleased to relax Rule 29(a) of the General rules in favour of Sri N. Balasubramanian so that notwithstanding the date of his regularisation of his services in the Upper Division viz. 12.7.1944 he may be treated as senior to Messrs. M.R. Doraiswamy and C. Abdul Hamid for purposes of appointment in the cadre of Upper Division clerks of my office.

3. I may however state in this connection that Sri N. Balasubramanian had stated in an early petition dated 21.6.1944 that there could be no grievance for anybody if he were given a chance (Upper Division) after one Sri V.D. Chellish whose case does not now call for any remarks and who was then next in rank to C. Abdul Hamid. It is doubtful whether this can at all be taken as indicating a relinquishment of his claim for seniority over Messrs. M.R. Doraiswamy and Abdul Hamid, since when it was made, fresh probation as a Lower Division clerk was considered to be necessary according to the ruling given by the Public Service Commission. In this connection I invite your attention also to my letter R.C. 290-F/44 dated 24.1.1945.

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

For Director of Public Instruction.

Ms. 212. Sol
2/12/46.

C.No. 74450/46.

Edn. and P.H. Dept. (A)

ESTT. - Office of the D.P.I. - Sri N. Balasubramanian - ~~Considered senior to other clerks, after relaxation of rule.~~

Read:- From the D.P.I., No. 201-F/45 dated 2-12-46.

G.O.(MS.) No. 1772 Edn., dated 7-8-46

Sri N. Balasubramanian is a permanent typist ~~office of the D.P.I., was transferred in Sept. 1942 as an offg. L.D. Clerk, in the Office of the D.P.I.~~ Under rule 29(c) of the Genl. Rules for the Provl. & Sub. Services, as explained in Pub. (S.C.) Dept. U.O. No. 46935/44-2, dated 10-10-44, he can count his service in the category of typists towards his seniority in the lower division. For the purpose of his promotion ~~to the U.D.~~ also, his seniority, ~~if considered~~, should be reckoned on this basis. But, by a misunderstanding of the rules, the D.P.I., in making promotions to the U.D. in 1944, gave seniority over Sri Balasubramanian to two other L.D. clerks who were apptd. to that category before Sri Balasubramanian's transfer thereto, but after his confirmation as typist.

2. On a subsequent representation from Sri Balasubramanian, the Dir. ordered that the service in the U.D. of the two clerks referred to, viz., Sri M.R. Doraiswami and Mr. Abdul Hamid, up to a ~~particular date (30-9-45)~~ ³⁰⁻⁹⁻⁴⁵, be deemed to have been rendered under the emergency provisions, thus protecting Sri Balasubramanian's seniority. This order has caused, however, hardship to the two clerks, in that it has not allowed them the benefit of their service in the U.D. for increments. The Govt. consider that the object of the order can be achieved without hardship to Sri Doraiswami and Mr. Abdul Hamid by relaxing the rule re: seniority in favour of Sri Balasubramanian. They therefore cancel the order.

3. H.E. the Governor of Madras accordingly directs, under section 241 (5) of the G. of I. Act, 1935, that
P.T.O.

the provisions of rule 29 (a) of the General Rules for the Madras Provl. & Sub. Services be relaxed in favour of Sri Balasubramanian and that he be treated as senior to Sri M.R.Doraiswami and Mr. Abdul Hamid in the category of U.D.Clerks in the Office of the D.P.I.

D.P.I.'s Office - Sri N. Balasubramanian, clerk - Seniority in the Upper division.

G.O.No.4254 Pub.(Ser), dated 7-5-43, authorised the transfer as L.D. clerks and the promotion as U.D. clerks, of typists selected for appt. before 15-6-1942, without requiring them to appear for the M.P.S.C.'s examination held for such transfer or promotion.

2. Sri N. Balasubramanian was first apptd. as a typist in the D.P.I.'s Office in 1937 and was later confirmed in that capacity. He was transferred as an L.D. clerk in that office on 1-9-42. By the time this transfer was ordered, the new rule re: seniority - General rule 29(c) - (which is to the effect that the transfer of a person from one category to another carrying the same pay shall not be treated as first appointment to the latter, but that the seniority of that person should be determined w.r.t. his appt. to the category from which he was transferred) had come into force. Therefore, for purposes of seniority in the category of L.D. Clerks, Sri Balasubramanian ~~can~~ ^{could} count his entire service - cf. U.O.No.46935/44-2.Pub.(Ser.), dated 10-10-44, and Memo.No.25919-3-B-Edn., dated 17-9-45.

3. Subsequently, in 1944, the question of filling by promotion vacancies in the Upper Division in the Dir.'s Office arose. U.D. posts are selection posts - i.e., appt. to them should be made on merit and ability, seniority being considered only where the former two considerations are approximately equal. The D.P.I. promoted the following four persons (including Sri Balasubramanian) with effect from the dates noted against them - under the emergency provisions for the reason that they had not then passed one of the tests prescribed:-

	Date of first appt. as clerk or typist.	Date of promotion to U.D.
--	--	---------------------------------

- | | | | |
|--|-----|---------|---------|
| 1. Sri M.R.Doraiswami, approved probationer in L.D. | ... | 4-5-38 | 12-6-44 |
| 2. Mr.C.Abdul Hamid -do- | ... | 27-6-40 | 22-6-44 |
| 3. Sri N.Balasubramanian, permanent typist and probationer in L.D. | ... | 10-7-37 | 12-7-44 |
| 4. Sri D.V.Ramanaiah, approved probationer in L.D. | ... | 15-5-41 | 10-8-44 |

After the 'promotees' passed the required examination, their appts. were regularised with retrospective effect, in the same

order of seniority as set out above.

4. The previous papers ⁹⁰ to show that, in making these promotions, seniority was the only consideration that weighed with these Dir.; the merit and ability of all the persons were presumably deemed approximately equal - cf. A at C.F.2.

But, at the time of the regularization of the appts., the seniority rule, as explained in para 1 above, was not correctly understood by the Dir.'s Office. Further, rule 30 (a) of the General Rules, relating to probation, had then been wrongly read by that office, interpreting it to mean that an approved probationer in the typists' category ^{who is also a} probationer in the L.D. should complete his probation in the latter for promotion as U.D. clerk - whereas, in fact, there was no such requirement at all.

Consequently, Sri N. Balasubramanian who is the seniormost and who should have been put at the top came to be assigned the third place ^{as shown in para 3 overleaf}. This was an anomaly.

Sri P.V. Ramanaiah who entered the L.D. category in the regular way earlier to Sri Balasubramanian's transfer to it, was assigned the fourth place. Sri Ramanaiah appealed to Government against this treatment and requested seniority over Sri Balasubramanian. But the Govt. were satisfied as to Sri Balasubramanian's position and therefore rejected the appeal. Thus, in a way, the rejection of Sri Ramanaiah's appeal itself conceded Sri Balasubramanian's claim for seniority over all the three - vide portions A at "I"/7 C.F. and R at A/5-6 and 8^{CF}. But, this point did not then present itself so clearly and was not pursued - vide Secy.'s note at "I"/5 N.F.

The D.P.I. has now realized the anomaly. He has accordingly recast the seniority list, ordering that the service in the U.D. of Nos. 1 and 2 ^{mentioned in para 3 overleaf} rendered up to a particular date, should be deemed as having been rendered under the emergency rule (which rule confers no probationary right), thus putting Sri Balasubramanian as the seniormost. The propriety of this order should, ^{if seems, be upheld} from the pt. of view of equity to Sri Balasubramanian, ~~should be upheld~~. But, it has a disadvantage in that it will not allow the two clerks Nos. 1 & 2 - Sri Doraiswami and Mr. Hamid - the benefit of actual service in U.D. for increments, and thus causes hardship to them. The Dir. has therefore requested Govt. that his order ^{recasting the seniority list} of revision may be cancelled but that the rule re: seniority [General rule 29(a)] be relaxed in Sri Balasubramanian's behalf as against the

the two other clerks and that he be treated as the seniormost. This relaxation is necy. and may be ordered.

Sri Balasubramanian's statement re: to in para 3 of the Dir.'s letter and reported to/been made in a separate connection altogether cannot be considered a "relinquishment" within the meaning of General Rule 37.

5. ☒ The rule was similarly relaxed recently in favour of Sri S. Arumuga Nadar and Sri T.V. Venkatanarayanan, 2 other clerks in the Dir.'s Office, so as to give them seniority over the 4 clerks mentioned on p.1 ante, themselves. The circo. of that case are briefly as follow. At the time the vacancies to which the 4 clerks were promoted, under the emergency provns. because they were unqualified, the former two were fully qualified, but were superseded by an oversight. To rectify the mistake, the Dir. subsequently ordered that the 4 clerks shd. be deemed to have held the U.D. posts up to a specified period under the emergency rule. This order made them ineligible for increments. The Govt. ^{therefor} cancelled it, but gave Sri Nadar and Sri Venkatanarayanan seniority over the 4 by relaxing the rule. ☒

6. A draft G.O. is subd. Pub.(Ser.) may see for remarks or acceptance, before circn. H.M.(Edn.), ~~and~~ H.P.M., and H.E. (A copy of the order will be sent to the M.P.S.C.)



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Pub (Ser) Dept

The E & P.H Dept note on pp. 1-3 ante may be perused. The draft order below may be accepted in this dept.

The file may be returned to E & P.H.

2/7/47

2-7-47

Pub (Ser) No: 1941/47-1.

5-7-47

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Edu and P.H. Dept

A

Please see notes from page 1 auto. The file may be circulated to H. M. (Edu), N. P. M. and

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