

Education and Public Health

(194⁹) Department.

Ms. SERIES.

G.O. NO. 2784, Education,

Dated 6-9-1949.

closed

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Supdt.

Set

[Despatch Abstract.]

MADRAS EDUCATIONAL RULES - Appendix 28 - Form of agreement between teachers and managements - Amendments - Issued.

Back Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
G.O.	2406	Edn.	7-11-47.				

Further Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
G.O.	1530	Edn.	31-5-51.				
G.O.	1802	Edn.	2-7-51				
40.	560	Edn.	19/3/59				

COPY OF MEMO NO.65593 B1/48-7 Edn. dated 25--7--49.

Schools - Secondary - Aided - Kalyanasundaram High School, Tanjore -
Re-instatement of headmaster - Action of the D.P.I. - Approved -
Amendments to the draft form of agreement - Called for.

From the D.P.I., Roc.No. 474 D3/49 dated 21--6--1949.

The Govt. approve the action of the Director of
Public Instruction in having issued orders advising the management
of the Kalyanasundaram High School, Tanjore, to reinstate the
headmaster forthwith.

2. In this connection the Government have considered
the question whether the Director of Public Instruction has any
right to interfere even where agreements have been entered into
in the prescribed form- As the agreement in its present form
does not provide for such interference, it is considered necessary
to incorporate the provisions of the instructions and other
necessary provisions in the agreement itself. The Director is

P.T.O.

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--2--
therefore requested to submit necessary amendments to the form of agreement prescribed in G.O.No.2406 Education, dated 7-11-47.

JM.LOBO PRABHU,
Secretary to Government.

To The Director of Public Instruction.

/TRUE COPY/

3
EDUCATION DEPARTMENT.

From The Director of Public Instruction,
M A D R A S.
To The Secretary to Government,
Education and Public Health
Department, Fort St. George,
M A D R A S.

R.O.C.No.474-D3/49 dated 9th August 1949.

Sir,

3
Sub:- M.E.R.-Appendix 28-Amendment proposed.
Ref:- Government Memo No.65,593-B1/48-7
dated 25-7-49.

(U) I submit the following amendment to the form of agreement prescribed in G.O.No.2406 Education dated 7-11-47 for favour of Government's approval.

AMENDMENT.

p32 (U)
Add the following as the penultimate paragraph in the agreement form before the words "in witness whereof" as clause No.10.

"That in the event of any of the terms of this agreement be violated, either party shall have the right of appeal to the Director of Public Instruction* and the orders of the Director Divisional Inspector shall be final and binding on the school authority and the teacher".

*Note: The correct designation of the officer should be retained and the other struck off, according to the particular category to which the teacher belongs.

p32 (U)
II) Instruction No.6 shall be deleted and the following shall be inserted instead:

"The appellate authority competent to dispose of such appeals shall be as hereunder:-

Director of Public Instruction: Appeals from persons holding the posts of Headmasters, Headmistresses, L.T. Assistants, Senior grade pandits, Munshis, Commercial and Manual Training Instructors.

Divisional Inspectors: Appeals from persons holding posts under all other categories".

Yours faithfully,

[Signature]

For Director of Public Instruction.

KVS/10/8

10/8 8/10/8

No. 61486 B, /49.

M.E.R. - Appendix 28 - Form of agreement between
and managements - Amendments - Issued.

Read: G.O.Ms.No. 2406 Education, dated 7-11-47.
From the D.P.I. Roc No. 474-D3/49 dated 9-8-49.

ORDER (MS) NO. 2284 EDN. DATED 6-9-49.

The following notification will be published
in the Fort St. George Gazette.

Notification.

Madras Educational Rules - Appendix 28 - Amendment:

In the form of agreement to be entered into
between a teacher and the management of an aided secondary
school prescribed in Appendix 28 to the M.E.R. the
following shall be added ^(inserted) as ~~clause No. 10~~ ^{paragraph}, namely:—
"10. That in the event of ^{(either party to this agreement failing to observe} the terms of this agreement
being violated, ^(thereof, the aggrieved) either party shall have the right of appeal
to the Director of Public Instruction* and the orders of
Divisional Inspector ^(parties) ~~school~~

^{the} Director shall be final and binding on the ^{authority and the teacher} authority and the teacher".

*NOTE: The correct designation of the officer should be
retained and the other struck off, according to the
particular category to which the teacher belongs.

^{for instruction (b) the} Instruction No. 6 shall be deleted and the
following shall be inserted instead: ^{existing instruction (b).} Substituted for the

"The appellate authority competent to dispose
such appeals shall be as hereunder:-

Director of Public Instruction: Appeals from ^(or in respect) persons
holding the posts of Headmasters, Headmistresses, L.
Senior grade pakhits, Munshis, Commercial and Manual
Training Instructors.

Divisional Inspectors: Appeals from ^(or in respect) persons holdi
posts under all other categories".

To The D.P.I.
The A.G. thro' Fin.
The S.G.P. (for pubn.
in the F.S.G.G.)
29/8

24/8/49
24/8/49

25/8/49

26/8

Abstract.

MADRAS EDUCATIONAL RULES - Appendix 23 - Form of agreement between teachers and managements - Amendments - Issued.

Read:-

G.O. Ms. No. 2406, Education, dated 7-11-47
From the Director of Public Instruction, No. 474-03/49 dated 9-9-49.

ORDER:

The following notification will be published in the Fort St. George Gazette:-

Notification.

Madras Educational Rules - Appendix 23 - Amendment.

I. In the form of agreement to be entered into between a teacher and the management of an aided secondary school prescribed in Appendix 23 to the Madras Educational Rules the following shall be inserted as paragraph 10 namely:-

"10. That in the event of either party to this agreement failing to observe the terms thereof, the aggrieved party shall have a right to appeal to the Director of Public Instruction and the orders of the Director shall be final and binding on the parties.

Note:- The correct designation of the officer should be retained and the other struck off, according to the particular category to which the teacher belongs (see instruction 6 at the end of the Appendix).

II. In the instructions at the end of the Appendix, for instruction 6, the following shall be substituted, namely:-

"The appellate authority competent to dispose of an appeal under paragraph 10 of the agreement shall be as hereunder:-

Director of Public Instruction: Appeals from, or in respect of, persons holding the posts of Headmasters, Headmistresses, L.T. Assistants, Senior Grade Pandits, Munshis, Commercial and Manual Training Instructors.

Divisional Inspectors: Appeals from, or in respect of persons holding posts under all other categories".

(By order of His Excellency the Governor)

J. M. Lobo Prabhu,
Secretary to Government.

To
The Director of Public Instruction, Madras.
" Accountant General through Finance.
" Superintendent, Government Press (for publication in the Fort St. George Gazette).

True copy/Forwarded/By order

JV. 1-3.

SUPERINTENDENT.

From the D.P.I., No. 941-D3-48 dated 2-1-49.

The case relates to the termination of the service of Sri M. Parameswaran Pillai, Headmaster, Mahajana High School, Erode, which is a private aided institution. Mr. Parameswaran Pillai was appointed Headmaster on 16th June 1947 and continued as such till 15th Aug. 1948 on which date his services were terminated by the Correspondent of the School as from 6th Aug. 1948, after nearly 14 months' service as Headmaster of the School.

2. The charges on the basis of which Mr. Parameswaran Pillai was discharged are:-

(i) His relationship with the members of the staff was not cordial;

(ii) The Headmaster issued a staff order to the teachers not to write teaching notes in 80 page note books issued by the management as he considered them to be too small.

On the basis of these charges, the Headmaster appears to have been found to be inefficient and insubordinate and his services terminated. The Director's opinion, based upon the Inspecting Officer's reports is that the charges did not justify the punishment. He considers the Headmaster's issue of instructions regarding the use of the 80 page note book was an act of indiscretion, but that this was not sufficient ground for the discharge. As regards the other charge, that is, item (i) above, there does not appear to be any evidence of lack of cordial relationship between the Headmaster and the staff of the school. No enquiry was evidently conducted into the conduct of the Headmaster.

3. The Director considers that in equity he should order the reinstatement of the Headmaster, but that this could be done only under the terms of the agreement between the management and the Headmaster, as in G.O. No. 2406, Edn., dated 7th Novr. 1947. In this case, however the management contend that no agreement has been executed. If an agreement as in that G.O. had been entered into, the conditions of service laid down in the terms of the Agreement

would be admissible to the Headmaster. Under these terms, Sri Parameswaran Pillai would be deemed to have completed probation, and the provisions in the agreement relating to the giving of notice before discharge, punishments, appeals etc. would be applicable. In this case, the D.P.I. would be the appellate authority, and having regard to the views expressed by him in the letter in the c.f., in respect of the punishment, he could have passed orders setting aside the orders of punishment on an appeal. It is a point for consideration whether all these provisions will apply to this case in the absence of a formal agreement. The Director however holds that in pursuance of the proceedings which he has issued, the agreement should be deemed to have been entered into from 7-11-1947. He considers that, in this view, there has been violation of the terms of the agreement, that the Headmaster's appeal should be allowed; and he proposes to order the reinstatement of Sri Parameswaran Pillai as Headmaster and has asked Govt. to approve his action.

4. It is not known whether the late Headmaster has separately preferred an appeal to the D.P.I. The papers in the c.f. do not contain any appeal. If there had been no appeal, it does not appear that orders can or need be passed as proposed by the Director. In any event, it will perhaps suffice if the management is informed that its orders were unjust and advised to pay the incumbent 3 months' salary.

Moreover, it is a point for consideration whether the terms of the agreement as in G.O. No. 2406, Edn., dated 7-11-47 will be applicable in a case where there has been no written agreement. It is doubtful whether the Director's proceedings will have any special legal validity and whether, in pursuance of these proceedings, he has locus standi in the matter, as if a formal agreement had been made.

5. Legal may see the case for remarks on the previous para.

V.R.
12-4-49

J.M.L.P.
14-4-49

Legal.

P.T.O. -3-

The penultimate sentence in para 5 on p. 18 c.f. and para 4 on p.28 c.f. show that an appeal has been preferred.

V.R.
12-4-49

It is stated that no agreement embodying the terms and conditions at 'C' has in this case been entered into by the teacher and the management. In the absence of such an agreement and in the absence of any evidence to show that the parties intended to be bound by such terms and conditions, it will not be possible to enforce the said terms and conditions. The rights of the parties in this case will be regulated by the terms of the original appointment unless they have been subsequently varied by consent of both parties. The proceedings of the D.P.I. referred to 'A' on page 2 ante does not in any way alter the position.

It is also to be observed that the model form of agreement at 'C' does not contain any clause providing for a right of appeal against violation of the terms of the agreement. Instruction 6 under II at page 3 of 'C' does not form part of the agreement and appears to be only an executive instruction. Education and Public Health may therefore examine whether even in cases where a formal agreement in the prescribed form has been executed, the D.P.I. can interfere in appeal.

XX
27-4-49

E. & P.H.

E. & P.H.(G2).

The case of Sri M. Parameswaran Pillai, Headmaster, Mahajana High School, Erode, a private aided institution, whose services have been terminated by the management of the institution, without sufficient justification has been brought to the notice of the Govt.

The Director has after enquiries, stated that the charges against the Headmaster do not justify termination of his services; and he has suggested that he should order the reinstatement of the Headmaster, in enforcement of the terms of the agreement as in G.O. No. 2406, Edn., dt.7-11-47. No formal agreement has, in fact, been entered into in this case.

Legal have pointed out that, in the absence of a formal-

P.T.O. -4-

formal agreement between the parties, it will not be possible to ^{enforce} enforce the terms and conditions in the agreement. If this view is accepted, the D.P.I. will have to be informed that he cannot take action as proposed by him in the penultimate para of his letter on pages 18-19 c.f. Subject to orders a draft order is submitted for approval.

2. The point whether under the agreement, action can be taken in appeal (para 2 of the Legal note on the previous page) will be examined separately after issue of orders as in para 1 above.

3. H.M.(Edn.) may see.

V.R.
5-5-49

May agree as at 'A'

J.M.L.P.
5-5-49

H.M.(Edn.) A.B.S.
8/5

/True copy/

APP 2 (92)

The question of amending the form of agreement in the Appendix to G.O. 2406 Edn dated 7.11.47 so as to provide for interference by the D.P.I. in the agreement itself - is Separately under Consideration. These extracts may be added to Net file on that subject.

12.7.49
25-7-49

To B. Sec
26/7

V.R.
5-5-49
'A'

Extract of notes from the file relating to - Schools - Secondary - Aided - Kalyanasundaram High School, Tanjore - Reinstatement of the Headmaster.

Issued as Memo No.65593 B1/49-5 Edn. dated 23-3-49
C.No.48059: From the D.P.I. Roc.No.474 D3/49 dt.21-6-49.

Please see the letters from the Director at p.60 of It has been reported that the Police are investigating into the affairs of the Kalayanasundaram High School, Tanjore. Meanwhile the management has dispensed with the services of the headmaster paying him 3 months' pay in lieu of notice. The Director is of the opinion that this move on the part of the management appears suspicious and seems to be calculated to thwart the purpose of the Police investigation. On an appeal from the headmaster, the Director has issued orders that the headmaster should be reinstated forthwith and presumes that his action is in order. The question whether under the agreement (prescribed in G.O.2406 Edn., dated 7-11-47) action can be taken in appeal is under consideration separately. In the circumstances stated it is for consideration whether the action of the D.P.I. in having ordered the reinstatement of the headmaster may be approved as a special case pending a final decision on the general question.

A case was disposed of in G.O.No.67 Education, dated 8-1-49. The appeal from a Headmaster of an aided school in Malabar Dt. whose services were terminated by the management without proper reasons was entertained by the Dept. and the matter was also brought to the notice of Govt. and the D.P.I. was informed that his action in having intimated to the management that 3 months' salary in lieu of the notice might be given was correct. In the present case, it would appear that the action of the D.P.I. in having advised the management of the Kalyanasundaram High School to reinstate the Headmaster would seem to be in order.

Legal may see.

V.R.
4-7-49.

J.M.L.
5-7-49.

LEGAL DEPARTMENT.

The present case is distinguishable from the

The point raised in the second para of the Legal Dept's note on p.3 n.f. of 'B' has not yet been taken up for examination.

V.R.
4-7-49.

the case referred by Education & P.H. Dept. at P on p.10 ante.

In that case, the question of payment of three months' salary in lieu of notice seems to have been considered to be necessary as the agreement entered into by the Headmaster with the management provided for such payment -- See para 2 of the note of E & P.H. at pp.1-2 n.f. of G.O.No.67 Edn. dated 8th Jan.49~~am~~. And there is also the fact that by rule 35 of the Grant-in-Aid-Code the Director has the power to deduct from the grant such amount as may be due to teachers arising out of an agreement under rule 12(i) of the Madras Educational Rules. The question whether the Dir. of Pub. Instn has any right to interfere even where agreements have been entered into in the form prescribed will, therefore, have to be considered with ref. to the terms of that agreement. The agreement, it is noticed, does not provide for any such interference. The instructions given at the end of the form prescribed by the Govt. do not form part of the agreement and cannot, therefore, be looked into -- See in this connection para 2 of the note of this dept. at p.3 n.f. of G.O.No.1459 Edn. dated 10th May 1949. In the circumstances, Education & P.H. may consider the desirability of amending the form of agreement suitably so as to incorporate the provisions of the instructions and other necessary provisions in the agreement itself.

The D.P.I. has stated that he has issued orders advising the management of the School to ~~xxx~~ reinstate the Headmaster (The order issued by him is not in the file). If so, there seems to be no objection to approving his action, informing him at the same time of the Legal position stated above.

EDN & P.H. DEPT. (B1)

The notes of the Legal Deptt. at p.11-12 ante may be perused. They are of the opinion that the draft form of agreement prescribed in G.O.No.Ms.2406 Edn. dt. 7-11-47 does not vest the D.P.I. with any right to interfere even where agreements have been entered into. They advise that the form of agreement should be suitably amended so as to incorporate the instructions in the agreement itself. The D.P.I. may be requested to submit the necessary amendments.

2. Legal have no objection to this Deptt approving the action of the D.P.I. in having advised the management of the Lyannasundaram High School, Tanjore, to reinstate the Headmaster. Some in subd. below for approval.

/TRUE COPY/

Issued as Memo No.65593-B1/48-7 Edn. dated 25--7--49.7
C.No. 61486: From the D.P.I. Roc.No.474-D3/49 dt.9-8-49.

The D.P.I. has submitted the necessary amendments to the draft agreement prescribed in G.O.No.2406 Education, dated 7-11-47.

A draft order is submitted below for approval. It may be sent to Legal for acceptance.

E & P.H. U.O. No.

61486 B1/49-1 Edn. fication may be made.
26-8-49



Legal U.O. No. 10957/49-1
1.9.49

67505

The alterations indicated in red ink by the Legal Deptt. on the draft notification may be accepted. The draft as altered may now be issued.

sd
3/9/49
1082
4-9-49

sd
3/9/49

E & P.H. (B1)

LEGAL DEPARTMENT.

The alterations indicated in red ink on the draft noti-

GOVERNMENT OF MADRAS.

ABSTRACT.

RULES -- Local Bodies -- Appointment of Headmasters and Headmistresses of High Schools -- Amendments to Rules -- Confirmed

EDUCATION AND PUBLIC HEALTH DEPARTMENT.

G.O.(Ms.)No. 1910, Education,

Dated 23rd Sept, 1959.

REID:-

G.O.Ms.791, Education, dated 21st April, 1959.

**

ORDER:-

The draft of certain amendments to the Rules governing the appointment of Headmasters and Headmistresses of District Boards and Municipal High Schools was published in the Rules supplement to Part I B of the Fort St. George Gazette dated 20th May, 1959. No objection or suggestion has been received. The draft amendments are hereby confirmed.

2. The appended notifications will be published in the Fort St. George Gazette.

(BY ORDER OF THE GOVERNOR)

P. K. HANUMANTHIL RAO,
DEPUTY SECRETARY TO GOVERNMENT.

To

The Controller of Stationery and Printing, Madras, for publication in the Fort St. George Gazette.

All Special Officers of District Boards.

All Executive Authorities of Municipal Councils (through the Chairman, Municipal Councils.)

The Director of Public Instruction, Madras.

The Examiner of Local Fund Accounts, Madras.

The Inspector of Municipal Councils and Local Boards.

//TRUE COPY:FORWARDED:BY ORDER//

SUPERINTENDENT.

URV. 26/9/-

APPENDIX.

NOTIFICATIONS.

I

In exercise of the powers conferred by sections 70 and 199 (2) (a) of the Madras District Boards Act, 1920 (Madras Act XIV of 1920), the Governor of Madras hereby makes the following amendments to the rules relating to the appointment of headmasters and headmistresses of High Schools under District Boards, published with the late Education and Public Health Department Notification, dated the 9th December, 1948, at pages 1-11 of the Rules Supplement to Part I B of the Fort St. George Gazette, dated the 22nd February 1949. The amendments hereby made shall be deemed to have come into force in the 7th January, 1957.

AMENDMENTS.

1) In rule 2 of the said Rules, for clause (1), the following clause shall be substituted, namely:-

"(1) The President shall send to the Divisional Inspector of Schools or the Inspectress of Girls' Schools concerned, a list of all the L.T., B.T. or B.Ed. Assistants in the service of the district Board, who have put in a service of not less than five years in the L.T., B.T. or B.Ed. grade or who will have put in on the 1st day of May of the year to which the panel relates, a service of not less than five years, and whose names are not already in the panel, together with the recommendation of the President as to who, among such persons, are, in his opinion, fit for inclusion in the panel and a detailed statement of the reasons for such recommendation. Such list shall be sent in October immediately preceding the year for which the panel is to be drawn up. The President, the Divisional Inspector of Schools and the District Educational Officer sitting together in the case of Boys' Schools and the President and the Inspectress of Girls' Schools sitting together in the case of Girls' Schools, shall draw up a panel of suitable candidates ~~xxxxxx~~ taking into consideration the list sent by the President. If the Divisional Inspector or the Inspectress is unable to accept any of the recommendations of the President, a reference shall be made to the Director of Public Instruction who shall give a decision in the matter provided that the Government of Madras may modify the decision when they consider it expedient. The panel thus drawn up which shall be treated as confidential shall be communicated to the President not later than the 1st May.

Note:- (1) For the purpose of five years' qualifying service of for appointment as headmasters/headmistresses mentioned above, the previous service, if any, of an assistant in a recognised secondary school irrespective of its management or in the Defence Department shall be taken into account when there are no assistants with five Years' service and the claims of no senior are affected thereby".

(2) in rule 3(1), for the paragraph beginning with the words "The number of persons to be included and ending with the words "Director of Public Instruction", the following paragraph shall be substituted, namely:-

"The number of persons to be included in the panel for the year will be equal to twice the number of permanent vacancies referred to in clause (a), plus the number of vacancies arising on account of the opening of new schools referred to in clause (c) less the number referred to in clause (b). Deviations from this rule will require the prior approval of the

the Director of Public Instruction".

II

In exercise of the powers conferred by sections 73 and 303 (2) (a) of the Madras District Municipalities Act, 1920 (Madras Act V of 1920) the Governor of Madras hereby makes the following amendments to the Rules relating to the appointment of headmasters and headmistresses of High Schools under Municipal Councils published with the late Education and Public Health Department notification dated the 9th December 1948 at pages 1-11 of the Rules Supplement to Part I B of the Fort St. George Gazette, dated the 22nd February, 1949. The amendments hereby made shall be deemed to have come into force on the 7th January, 1957.

AMENDMENTS.

1) In rule 2 of the said rules, for clause (1), the following clause shall be substituted, namely:-

"(1) The Appointment Committee shall send to the Divisional Inspector of Schools or the Inspectress of Girls' Schools concerned, a list of all the L.T., B.T. or B.Ed. Assistants in the Service of the Municipal Council, who have put in a service of not less than five years in the L.T., B.T. or B.Ed. grade or who will have put in on the 1st day of May of the year to which the panel relates, a service of not less than five years and whose names are not already in the panel, together with the recommendation of the appointment Committee as to who, among such persons, are in its opinion, fit for inclusion in the panel and a detailed statement of the reasons for such recommendation. Such list shall be sent in October immediately preceding the year for which the panel is to be drawn up. The appointment Committee, the Divisional Inspector of Schools and the District Educational Officer, sitting together in the case of Boys' Schools and the appointment Committee and the Inspectress of Girls' Schools sitting together in the case of Girls' Schools, shall draw up a panel of suitable candidates, taking into consideration the list sent by the Appointment Committee. If the Divisional Inspector or the Inspectress is unable to accept any of the recommendations of the appointment Committee a reference shall be made to the Director of Public Instruction, who shall ~~xxxxxx~~ give a decision in the matter provided that the Government may modify the decision, when they consider it expedient. The panel thus drawn up, which shall be treated as confidential, shall be communicated to the Executive Authority of the Council not later than the 1st May.

NOTE: (1) For the purpose of five Years' qualifying service for appointment as headmasters/headmistresses mentioned above, the previous service, if any, of an assistant in a recognised secondary school irrespective of its management or in the Defence department shall be taken into account when there are no assistants with five years' service and the claims of no senior are affected thereby.

(2) A meeting of the Divisional Inspector of Schools and the District Educational Officer or the Inspectress of Girls' Schools sitting with the appointment Committee, need be held only in cases where a Municipal Council definitely requires a fresh annual panel or a modification of the existing panel".

(2) In rule 3(1), for the paragraph beginning with the words "The number of persons" and ending with the words "Director of Public Instruction" the following paragraph shall be substituted, namely:-

"The number of persons to be included in the panel for the year will be equal to twice the number of permanent vacancies referred to in clause (a) Plus the number of vacancies arising on account of the opening of new schools referred to in clause (c), less the number ~~xx~~ referred to in clause (b) Deviations from this rule will require the prior approval of the Director of Public Instruction".

NOTIFICATION III.

In exercise of the powers conferred by sections 70 and 199 (2) (a) of the Madras District Boards Act, 1920 (Madras Act XV of 1920), the Governor of Madras hereby makes the following amendment to the rules relating to the appointment of headmasters and headmistresses of High Schools under District Boards, published with the late Education and Public Health Department Notification, dt. the 9th December, 1948, at pages 1-11 of the Rules Supplement to Part I B of the Fort St. George Gazette, the 22nd Feb. 1949.

AMENDMENTS.

III.

In clause (1) of the rule 2 of the said rules, after Note (1), the following Note shall be added, namely:-

"(2) A meeting of the Divisional Inspector of Schools and the District Educational Officer or the Inspectress of Girls Schools sitting with the President need be held only in case where a district Board definitely required a fresh annual panel or a modification of the existing panel".

URV.26/9/-

W. Kantharaj
SUPERINTENDENT.