

MISCELLANEOUS

Government of Madras

EDUCATION AND PUBLIC HEALTH DEPARTMENT
(Education)

G.O. No. 749, 16th March 1949

Rules—Local bodies—Disposal of appeals from teachers—Delegation of power to Joint Director of Public Instruction—Draft rule—Published.

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G.O. No. 1265, Education, dated 6th June 1938.

From the Director of Public Instruction, dated 4th October 1948, C. No. 2977-B-2/48.

Order—No. 749, Education, dated 16th March 1949.

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

(By order of His Excellency the Governor)

M. V. SUBRAMANIAN,
Secretary to Government.

To the Special Officers of District Boards.
" Executive Authorities of Municipal Councils (through the
Chairmen concerned).
" Director of Public Instruction.
" Legal Department.

To the Inspector of Municipal Councils and Local Boards.
" Examiner of Local Fund Accounts.
" Superintendent, Government Press (for publication of the
notification).

[APPENDIX.

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NOTIFICATION.

The following draft of a rule which it is proposed to make in exercise of the powers conferred by sections 70, 72 and 199 (2) (a) of the Madras Local Boards Act, 1920 (Madras Act XIV of 1920) is hereby published for the information of all persons likely to be affected thereby, as required by section 200/304 of the said Act.

Notice is hereby given that the draft rule will be further proceeded with after six weeks from the date of publication of this notification and that objections and suggestions which may be received from any person with respect thereto before the expiry of the period aforesaid will be considered by Government of Madras.

DRAFT RULE.

Notwithstanding anything contained in rule 9(2) (b) of the rules relating to the appointment and punishment of officers and servants of local boards/municipal councils (published with the late Local Self-Government Department Notification No. 934/935, dated the 18th August 1936, at pages 451-453 of Part I-A of the *Fort St. George Gazette*, dated the 1st September 1936, as subsequently amended), so long as the post of Joint Director of Public Instruction is in existence, every appeal against an order passed by the president of a district board imposing any punishment not specified in rule 8/7 of the said rules on a member of the teaching establishment in an elementary school, shall lie to the Joint Director of Public Instruction instead of to the Director of Public Instruction.

PRESS SLIP.

ORDINARY.

URGENT (a).

SPECIAL (a).

DEPARTMENT.

Current No. 7443682/48, dated 7-10-1948.
G.O. No. 749, dated 16-3-1949.

Number of MS. pages sent { (b) Correspondence 2 pages
(c) Notes nil

Brief subject: Rules - Local Bodies - Disposal of appeals from teachers. Delegation of power to Joint Director of Public Instruction - Draft rule - Published

(d) Number of copies required when struck off (not including copies for volumes and editors' table which are retained in the Press).

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Assistant Secretary to Govt.

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Government of Madras
EDUCATION AND PUBLIC HEALTH DEPARTMENT
(Education)
G.O. No. 749, 16th March 1949
Rules—Local bodies—Disposal of appeals from teachers—Delegation of power to Joint Director of Public Instruction—Draft rule—Published.

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DRAFT RULE.

Notwithstanding anything contained in rule 9 (2) (b) of the rules relating to the appointment and punishment of officers and servants of local boards/municipal councils (published with the late Local Self-Government Department Notification No. 934/935, dated the 18th August 1936, at pages 451-453 of Part I-A of the *Fort St. George Gazette*, dated the 1st September 1936, as subsequently amended), so long as the post of Joint Director of Public Instruction is in existence, every appeal against an order passed by the president of a district board imposing any punishment not specified in rule 8/7 of the said rules on a member of the teaching establishment in an elementary school, shall lie to the Joint Director of Public Instruction instead of to the Director of Public Instruction.

is with P. slip encl.

C.F. 32.

In reply, please quote
number, date and
short title.*

Education DEPARTMENT.

Received _____ Registered _____

From (Name)

(Designation) The Director of Public Instruction,

Post Box _____, (STATION) MADRAS.

Telegraphic Address _____

To

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

C. No. 2977 B2/48, dated 4-10-1948.

Sir,

Sub:- Rules - Local bodies - Disposal of appeals
from teachers under Elementary Schools -
Delegation of Power to the Joint Director
of Public Instruction - Amendment - Suggestion of -

I have the honour to state that in Govt. Order No. 1265
Edn., dated 6-6-38 the power to dispose of appeals from teachers
under Local Bodies was delegated to the Director of Public
Instruction. Now in G.O. No. Ms. 2162 Edn., dated 1-9-48 the
post of the Joint Director of Public Instruction has been
created and I consider that the power to dispose of appeals
from Elementary School teachers under Local bodies may be delegated
to the Joint Director of Public Instruction. Hence, I suggest
the following amendment to the rule issued in G.O. 1265 Edn.,
dated 6-6-38 for the sub-clause (1) of Clause (b) of Sub-rule
918 of the rules, the following may be substituted - "in
respect of a member of the teaching establishment of a Secondary
or Elementary School to the Director of Public Instruction or to
Joint Director of Public Instruction as the case may be".

Yours faithfully,

For Director of Public Instruction.

MDS
5/10

10/9/48



74426

ENCLOSURES _____

SPARE COPIES _____

4/11

Notwithstanding anything contained in rule 9(2)(b)
of the ~~said~~ rules, ^hso long as the post of Jt. Director of
Public Instruction is in existence, every appeal against
an order passed by the president of a District board
executive authority of a ml. cl.

imposing any punishment not specified in rule 8 of the said rules on a member of the teaching establishment in an elementary school, shall lie to the Jt. Director of Public Instruction instead of to the Director of Public Instruction.

E. & P. H. Dept. (B2)

Sub:- Disposal of appeals from teachers in Elementary schools under local bodies.

Ref:- From the D.P.I., C.No.2977=B2/48, dated 4-10-48.

At present, the D.P.I. has been authorised to dispose of appeals from teachers in elementary and secondary schools under local bodies. As the post of Jt. D.P.I. has been created, the D.P.I. suggests that the power to dispose of appeals from elementary school teachers may be vested in the Jt. D.P.I. - the power to dispose of appeals from teachers in secondary schools to continue to be vested in the D.P.I.

2. A draft order is submitted for approval.

Legal may see for scrutiny before circulation.

RSN
27-10-48
SS
2-11-48.

The post of Joint D.P.I. is a tempy. one. It has been suggested separately that in respect of Govt. appts. (borne on the Madras Edl. Sub.Service, Madras Ministerial Service, etc.), the Joint Dir. should exercise all the statutory powers hitherto exercised by the Dy.D.P.I.(Personnel). In that connection, Legal has ruled that an ad hoc rule should be framed to give effect to the proposal; the service rules ~~cannot~~ could not be amended. Similarly here, the rules relating to appt. and punishment of officers and servants of local bodies which have been made under the M.L.B Act and the M.D.M. Act cannot, it seems, be amended. Legal may be requested to offer their remarks as to whether the issue of an ad hoc rule in this case also would meet the needs and, if so, to kindly suggest a draft.



E.P.H. NO. 74436B2/48-1

23.11.48

S.O. 12832

RSN 22/11/48 S. by Mr. Legal

Legal Dept

Expt may kindly put up the file referred to at A on page 1 ante

88

7.12.48

J.S

7/12

Expt

Expt. 17

E.&P.H. Dept (B2)

Legal memo 13832/48-1
7/12/48



The file referred to at A on p-1. ante is in circulation. Its return may be awaited. This

may be over

RSN 9.12.48 2 9/12

dm 14/12/48

The G.O. referred to at A on p-1. ante is are

put up at N. The file may now be sent to Legal Deptt.

RSN 11.12.48 2 12.12.48

dm 14/12/48

Legal

E.&P.H. no. 74436 B2/48-2
15.12.48

Legal Department.

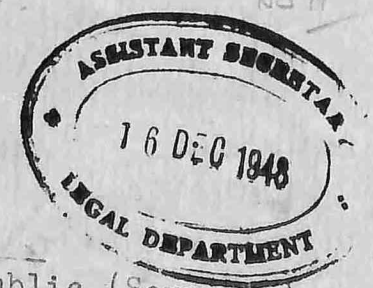
In the file referred to by E.& P.H. in their note above, the point which arose for consideration was whether, for the purpose of conferring on the Joint Director the powers that were exercised by the Deputy Director, an executive order would be sufficient or an ad hoc rule should be issued. Since the provision

contemplated was in respect of a temporary need (the post of Joint Director being a temporary one) this department considered that instead of amending the permanent rules it would be more appropriate to frame an ad hoc rule. This department therefore agreed with Public (Ser.) that an ad hoc rule might be issued.

It was not the intention of this department to suggest that the service rules could not be amended.

Since the provision contemplated in this case also

Public (Services) suggested that an ad hoc rule might be issued



S.O 14981

is in respect of a temporary need it seems preferable to issue an ad hoc rule. But there is no legal objection to the amendment of the rules referred to at B on page 1 ante, if E.& P.H. so desire.

88

22.12.48

J.S

22/12

Expt. H.

E.&P.H. Dept (B2)

Legal memo 14981/48-1
22/12/48



For orders whether an ad hoc rule should be issued to empower the Joint Director to dispose of appeals from teachers in elementary schools or whether the statutory rules relating to the appointment and punishment of officers and servants of local bodies should be amended.

The file may be circulated to H.M. (Edn).

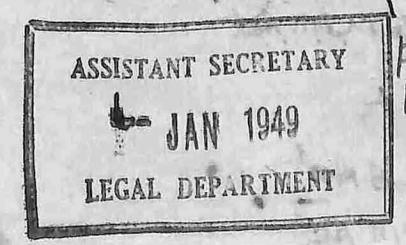
It is enough if an ad hoc rule is issued. Legal may kindly suggest a draft.

RSN 27.12.48 2 27/12/48

dm 28/12/48

E.&P.H. no. 74436 B2/48-3
5.1.49

LEGAL DEPARTMENT



The draft rule may run somewhat as follows:-

"Notwithstanding anything contained in rule 9(2)(b) of the rules relating to the appointment and punishment of officers and servants of local boards published with Local Self-Government Department Notification No.934 dated the 18th August 1936 at pp.451-453 of Part I-A of the Fort St. George Gazette, dated the 1st September 1936, as subsequently amended, so long as the post of Joint Director of Public Instruction is in existence, every appeal against an order passed by the president of a district board imposing any punishment not specified in rule 8 on a member of the teaching establishment in an elementary school, shall lie to the Joint

p215 13006 157

p238 13004 157

Director of Public Instruction instead of to the Director of Public Instruction."

E. & P.H. may satisfy themselves whether the above draft carries out the intention correctly.

SS
18.1.49

B
18.1.49
A.D.S.

E & P.H. (B2) legal uo 148/49-1
18/1/49

The draft suggested by the Legal Dept. so far as it is concerned. It may be amended as shown in pencil to cover municipal boards also. No previous publication of the rule appears to be necessary. For orders as to A revised draft order is submitted below for approval.

For orders as to circulation.

RSN
1.2.49
J. P. H.

J. P. H.
3/2/49

H. P. H.

"Under what statutory provision were these rules made? Is previous publication legally required?"

M.V.S.
7.2.49.

Subd. that the rules relating to the appointment and punishment of officers and servants of

local boards have been made under municipal Councils

sections 70 and 72 and clause (a) of sub-section 2 of § 199 of the M.L.B. Act

sections 73 and 75 and clause (a) of sub-section 2 of § 303 of the M.D.M. Act

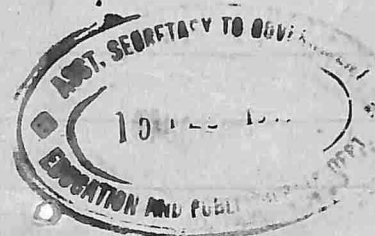
Previous publication of these rules or of amendments

to them is legally necessary under section 200 of the M.L.B. Act 304 of the M.D.M. Act

The rule in the draft below is not being made under any of the legal provisions mentioned above, and it was, therefore, presumed that no previous publication would be necessary. But it may be said that the draft rule below

has the effect of an amendment to the 'Appointment and Punishment' rules and, in this view, previous publication may be desirable, though not legally required. Legal may however be consulted.

J. P. H.
11/2/49



Legal uo. 158/49
14/2.

11455

RS
15/2/49

EPH uo. 74436B2/49.5
23.2.49



Legal uo. 2155/49
28/2/49

Legal Department.

The rules relating to the appointment and punishment of officers and servants of municipal councils and local boards are statutory rules, made under the relevant provision of the M.D.M. and M.L.B. Acts. The ad hoc rule in the draft below has the effect of modifying the provisions of those statutory rules in a material respect, in that it seeks to substitute the Joint D.P.I. for the D.P.I. as the appellate authority in certain cases. Consequently, the draft rule should be made in accordance with the requirements of those two Acts. Section 304 of the D.M. Act and section 200 of the L.B. Act require previous publication. ~~Consequently~~ the draft rule can be made only after complying with the requirement of previous publication. E. & P.H. may suitably alter the draft and send it to this Department for scrutiny before issue.

B
14.2.49

E & P.H.

E.P.H. (B2) Dept

A revised draft order is submitted below for approval.

Legal may see for scrutiny of the draft order before issue.

RSN
21.2.49
M.S.
21/2.

J. P. H.
23/2/49

Legal

LEGAL DEPARTMENT.

As the intention is to make an ad hoc rule and not to amend (as proposed in the draft) the rules relating to the appointment and punishment of officers and servants of municipal councils and local boards, the draft notification may be altered as indicated in red ink thereon.

B
27.2.49

E.P.H.

6

EPH (P.S.) Dept

The amendments suggested by the Legat Dept.
may be accepted. The file may be circulated to
HM (Edn) for approval of the draft order below.

RM
7.3.49

DM
7/3/49 S

by
H.M. (Edn) (Lr.)

15.3.49

CPA 274436 2/49



23/49

Copy sent to
23.3.49

EPH (P.S.) Dept

inf. circled in the above draft order for

approval

copy sent to the Legat Dept. for

2.4.49
12.5.49