

EDUCATION (1950) D.K.P.

MS. SPRING

Closed
(10)

By
S. K. S.

G.O. No. 1467. Ptn.

DATED. 10.5.1950.

9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

Sub.

ESTABLISHMENT - Office of the Commissioner for Govt. Examinations, Madras - Exclusion of posts of temporary Clerks employed Seasonal work from the purview of the Service, and the Madras Public Service Commission - orders issued.



(1)

Bank (pays)

10 (10) 2181 9th 15/1/40
 20 (20) 1704 9th 16/2/43
 30 (30) 202 9th 16/2/40
 40 (40) 125 9th 16/2/40
 50 (50) 2060 9th 25/9/47
 60 (60) 2 53 9th 16/2/40

செப்பனருவர் பெயர்

செப்பனருவர் பெயர்

செப்பனருவதற்காக எடுத்துக்

கொள்ளப்பட்ட நாள். 1991

செப்பனரு முடித்த நாள் 1992

சாபார்க்கும்

பா.பா.எ.

கையொப்பம்.

ஆரா ய்ச்சி

உதவியாளர்

கையொப்பம்.

Subject:

Establishment - Office of the Commissioner for Government

Examinations, Madras - Temporary Staff - Rules for Recruitment.

30 JUL 1949

R.C.No.218-A/45.

Dated 27-7-1949.

From (Name):- Sri D.S. Reddi, M.A., (Oxon).
 (Designation):- Commissioner for Government Examinations,
 Madras.

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

Sir,

Reference:- G.O.Ms.No.2153 Education, dated 1-9-1948.

The rules relating to the recruitment of temporary clerks employed in this office for seasonal work and who are paid out of the lump sum allotment sanctioned every year are contained in G.O.No.1, Public (Services), dated 2-1-1935 read with G.O.Ms.No.2181, Education, dated 13-12-1940. Owing to the paucity of qualified candidates during the War years and after, the rules were temporarily kept in abeyance and in G.O.Ms.No.2153, Education, dated 1-9-1948, Government have extended the period of exemption from the operation of service rules till the end of October 1949.

In this connection, it is submitted that the temporary clerks are paid only the minimum of the scale of pay of a lower division clerk and they are not eligible for any leave or any benefit or concession admissible under the rules. Yet, the qualification required for appointment to these posts is the minimum general educational qualification prescribed for Public Service. The temporary clerks are employed during the heavy examination season and if qualified hands alone are to be employed, they may go away when they get a better appointment elsewhere and this will retard the progress of urgent examination work in this office. Further, candidates satisfying public service eligibility do not apply for appointment in this office, as they get only a fixed monthly pay without any increment in future and as they are not paid during the days of absence. For the same reason, the rule of communal representation cannot be enforced strictly, though in actual practice, applications from candidates belonging to the several communities are considered and communal rotation followed as far as possible. The nature of work to be done by the temporary clerks is only of a routine nature and it is enough if the minimum qualification for the post of temporary clerks in this office is the possession of a "Completed S.S.L.C." with Public Examination marks approaching eligibility to Public Service. In these circumstances, I suggest that the rules relating to the recruitment of temporary clerks may be revised as follows in modification of G.O.No.1, Public (Services), dated 2-1-1935, to obviate the necessity of approaching Government year after year for keeping the service rules in abeyance and as candidates eligible for public service are still not available for appointment as temporary clerks.

RULES.

The cadre of lower division clerks in the Madras Ministerial Service in the office of the Commissioner for Government Examinations, Madras, shall be increased temporarily by such number of posts and such rates of pay not exceeding Rs.45/- plus Rs.22/- Dearness Allowance, a month as may from time to time be fixed by the Secretary to the Commissioner for Government Examinations, Madras, subject to the condition that the expenditure on account of such posts shall not exceed the lump sum allotment sanctioned every year.

P.T.O.

2. Nothing contained in the general rules for subordinate services or in the special rules for the Madras Ministerial Service shall apply to appointments to the service in the said temporary posts.

3. Appointment to the service in the said temporary posts shall be made by the Secretary to the Commissioner for Government Examinations.

4. A person appointed to any of the said temporary posts, shall not be regarded as appointed to the service and shall not be entitled to count his service in that post towards probation, increments, leave or pension in the event of his appointment to the service in any other post either before or after the termination of his temporary appointment.

W. J. Ganapathy
27.7.49

for COMMISSIONER.

E. H. H. (C. G. E.)

The G.O. referred to at p. 1 ante have been called for from the District Collector, and may be awaited till 10-8-49.

W. J. Ganapathy
27.7.49

C. No. 58033/49.

E. & P. H. (G2).

Letter No. 58033-49-2 Edn. dated 12-10-49.

To

The Secretary,
Public Service Commission, Madras-8.
(with enclosure) copy of H-2 C. f.

Sir,

Sub:- Establishment - Office of the Commissioner for Govt. Examinations, Madras - Exclusion of posts of temporary clerks employed for seasonal work from the purview of the Service Rules for recruitment.

I am directed to forward ~~attached~~ a copy of letter R.C.No.218-A/45 dated 27-7-1949 from the Commr. for Govt. Examinations, Madras, and to state that he has ^{suggested} ~~proposed~~ that for the reasons stated, the ~~recruitment~~ ^{conditions of service of the temporary clerks employed in his office for seasonal work may be excluded from the purview of the Service Rules relating to examinations are not matter} of recruitment, and that he may be permitted to

Sanctionable for regulation

appoint persons to temporary posts in question from a list of candidates which will be maintained by himself. I am therefore directed to request the concurrence of the Commission for the exclusion of the posts from the Commission's purview by a direction under the latter part of regulation 18 (b) of the Madras Public Service Commission Regulations.

2. I am to add that if the Commission agrees to the proposal, a notification will be issued by the Govt. under the proviso to Section 241 (2) of the Govt. of India Act, 1935, excluding the posts from the purview of the Service Rules, ^{the rules proposed by} ~~and necessary executive instructions will be issued by Government to regulate the conditions of service of the posts.~~ ^{ECGE will also be approved.}

W. J. Ganapathy
27.7.49

to the C.G.E.

W. J. Ganapathy
27.7.49

W. J. Ganapathy
27.7.49

Y. F.,

W. J. Ganapathy
27.7.49

Tel. "PUBSERCOM"

From
Sri C. Krishnaswami Chetty,
Secretary,
Public Service Commission,
Madras-8.

To
The Secretary to Government,
Education and Public Health
Department, Fort St. George,
Madras-9.

No. 7427-CL/49-1 dated 25th Oct. 1949.

83/148
Rules - Madras Ministerial Service - Temporary clerks
in the Office of the Commissioner for Government Exami-
nations - Exclusion from the purview of the Statutory
Rules - Your letter No. 58033-G2/49-2 ~~in~~ Education dated
18-10-49.

I am to say that the particular circumstances of the case,
the Commission agrees under the latter part of Regulation 18(b)
of the Madras Public Service Commission Regulations, 1937 to
temporary appointments of lower division clerks being made in the
office of the Commissioner for Government Examinations for
seasonal work without the ordinary statutory reference to the
Commission, subject to the conditions specified in the draft rules
forwarded with the letter cited.

Yours faithfully,

C. Krishnaswami Chetty
Secretary.

Encl: Nil.
N.S. 26/10/49

(4)

C.No. 58033/49

E. & P.H. (G2).

From the C.G.E., No. Rc.218-A-45 dated 27-7-49.

ESTABLISHMENT - Office of the C.G.E., Madras - Temporary staff - Rules for recruitment.

The C.G.E. has submitted for the approval of Govt. revised ad hoc rules for the temporary staff he employs in his office during the examination season every year. *The expenditure on the staff is met from the lump sum allotment.*
2. Special rules for that staff were first approved in G.O. No. 1, Pub (Ser), dated 2-1-1935¹⁹³⁵ and were subsequently amended in G.O. No. 2181, Edn., dated 13-11-1940. Owing to the paucity of qualified hands during the war years the rules were temporarily kept in abeyance. As even subsequently paucity of qualified hands has been felt, the temporary posts in question have so far been excluded from time to time from the service rules framed in 1935. The last extension given is upto end of October 1949. The Commr. has stated that candidates eligible for public service are still not available, that in making appointments to the temporary posts service *provisions of rules relating to communal rotation*, the usual minimum general educational qualification etc. cannot be strictly applied. In the circumstances and in order to avoid the necessity to approach Govt. every year for sanction for exclusion of the posts from the service rules, the C.G.E. has proposed the revised rules in his letter in the c.f.

3. The rules proposed are the same as those *approached* in 1935 but for (1) the provision for the present minimum pay applicable to l.d. clerks and (2) the complete exclusion of the posts *from* the general rules in all particulars, *now proposed*.

4. Public (Ser) may see the case and offer remarks *from* the rules proposed. Finance may also see.



E. No. 126 No. 58033-
92/49-1 dated 9.9.49

7.9.49

Pub (Ser)
Fin.

2.9.49

(5)

(P.T.E.)

Pub (Ser) Dept

Please see E & P.H. note overleaf.

2. From rules 2 and 4 of the revised draft rules submitted by the C.G.E., in respect of the temporary posts of l.d. clerks employed in his office for seasonal work in connexion with examinations, it is clear that his intention is to exclude those posts from the purview of the statutory rules. In other words the C.G.E. considers that the conditions of service of those temporary posts are matters not suitable for regulation by rules. In the circumstances explained in his letter at p.1 of his view may be agreed to in this department. In that case the proper course seems to be to issue a notification under the latter part of the proviso to section 241 (2) of the Govt of India Act, 1935 excluding those posts from the purview of the rules, and to issue the necessary ^{executive} instructions regarding their conditions of service. Such a notification was already issued in respect of those posts in G.O. no. 1704, Education, 25.12.43, the scope of which had been limited for the duration of the last war, and subsequently extended up to the end of October 1949—vide G.O.s no. 242, Edn, 25.2.46, 1851, Edn, 26.9.46, 2060, Edn, 25.9.47 and 2153, Edn, 1.9.48. What is required now is to omit from that notification (as subsequently amended) the words "up to the end of October 1949" introduced by G.O. no. 2153, Edn, 1.9.48.

This may be done by issuing a notification under the proviso to section 241 (2) of the Govt of India Act. E & P.H. may take necessary action in this regard. They may also issue necessary executive instructions regarding the conditions of service of the temporary posts of the l.d. clerks in question.

3. The temporary posts of l.d. clerks in the C.G.E.'s office, whose pay is the minimum of the l.d. clerk's scale viz. Rs. 45/- p.m., ordinarily belong to the M.M.S. and fall within the purview of the Commission. As the intention of the C.G.E. in suggesting that the posts may be excluded from the purview of the service rules obviously is that appointments to such posts may be made from among candidates selected by himself and not from the approved list of candidates selected by the M.P.S.C., and as it is also proposed to accept his suggestion regarding exclusion of those posts from the scope of the service rules, it is necessary to exclude those posts from the Commission's purview—cf. the Legal Dept's ruling at (B) in a similar case. E & P.H. may first address the Commission in the matter and obtain its concurrence for excluding the posts from its purview by a direction under the latter part of regulation 18 (b) of the M.P.S.C. Regulations.

4. With the above remarks the file may be passed on to Finance.



Through Secy - A. M. S. P. S. C.

Pub (Ser) no. 2629/49
dated 28-9-49

Notes on pp. 1-3 above may be perused and the case returned to Pub (Ser) Dept.
 Pubs 1 and 4 of the Draft Rules are agreed to. P. 2 may be revised in this Dept.
 4.2.49 E.P.H.

The Public (Services) Dept. note at pp. 2-3 may be perused. A draft letter to the Secretary, M.P.S.C., for their concurrence in the matter is submitted below for approval.
 10/10/49 S 12/4 76447

[Letter No. 58033-82/49-2 Dtd. 12-10-49.]
 (C. 83148/49. From the C. of E. No. 7421-21/49, d. 25/10/49)
 E.P.H.
 2/2

The proposal in this file relates to the exclusion of temporary posts of L.D. clerks required for seasonal work in the office of the C.G.E. from the purview of the M.P.S.C. Pub (Ser) agree to this proposal and suggest that the concurrence of the M.P.S.C. to such exclusion should be obtained. The Commission has given its consent to such exclusion. It is presumed that the direction proposed should be under the proviso to section 309 of the Constitution of India. It is also for consideration whether a reference to the M.P.S.C. Regulations can be made in the draft notification to be issued in this file. Subject to the verification of these presumptions, a draft order is submitted. Pub (Ser) and Legal may see.

11-4-50 Pub (Ser) Legal



Pub (Ser) Dept

(Previous note on pp. 2-3 ante)

The further notes on p. 4 ante and the draft order below may be perused.

2. 'K' on p. 4 ante: The direction proposed should be under the latter part of regulation 18(b) of the M.P.S.C. Regulations. A reference to the proviso to article 309 of the Constitution of India need not be made in the said direction. A notification is not necessary for a purpose.

3. As already stated in this dept's previous note the intention of the C.G.E. is that the temporary posts of L.D. clerks in question should be excluded from the purview of the statutory rules and that their condition of service should be governed by non-statutory rules or executive instructions. The suggestion of this dept at 'M' on p. 3 ante cannot however be adopted now for the purpose, as the entire Govt. of India Act, 1935 has been repealed by Article 395 of the Constitution. The Constitution does not also contain a provision similar to the proviso to section 241(2) of the Govt. of India Act, 1935. Nevertheless there seems to be no provision in the Constitution which precludes the rule-making Authority from excluding certain posts from the purview of the rules. A direction in the lines of G.O. No. 1913, Public, d. 21-4-50 may be issued for the purpose.

4. Subject to the above remarks and the alterations indicated in pencil in the draft order, the draft may be accepted in this department.

5. The file may be passed on to Legal.

24.4.50 28.4.50 Legal Department.

The alterations indicated in red ink on the draft may be made in addition to the alterations indicated in pencil.



1687 25.4.50. Draft Ser-A.

Public (Services).

1/5/50

5/5/50

(F)

Legal NO:

6628/50

1/2/50

Pub(Ser) and Legal

Notes about may be perused.

The revised draft order

conveying out to the various divisions

is for approval

The proposal in this

file relates to the exclusion of temporary posts of L.O. clerks required for seasonal work in the office of the Commissioner for Govt. Examinations from the purview of the M.P.S.C. The proposal has been agreed to by the Madras Public Service Commission and the Public (Ser) Dept. The draft order already put up has been revised with reference to the suggestions made by Public (Ser) & Legal in their notes on pp 5-6 supra and the revised draft put up below is for approval.

5/5/50

8/5/50

8/5/50

9618

MAY 1950

DEPARTMENT

MA-2

ESTABLISHMENT - Office of the Commissioner for Govt. Examinations, Madras - Exclusion of posts of temporary clerks employed for seasonal work from the purview of the service rules for recruitment.

issued. Read again: G.O. 2191, Edn., dt. 13-11-49, G.O. 1704, Edn., dt. 16-12-49, G.O. 242, Edn., dt. 5-2-46, G.O. 1851, Edn., dt. 26-9-46, G.O. 2050, Edn., dt. 25-9-47, G.O. 2155, Edn., dt. 1-9-48. From the C.G.E. No. Rc. 218-1/45 dt. 27-7-49. From the Secretary, M.P.S.C., No. 7427-C1/49-1 dated 25-10-49.

ORDER/MS. NO.

EDN., DATED

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

NOTIFICATION.

309 of the Constitution -

Under the proviso to section 2(14) of the Govt. of India, Madras Public Service Commission and regulation 18(b) of the Madras Public Service Commission regulations contained in the Madras Services Manual, Volume I, H.E. the Governor of Madras, hereby directs that appointments to the temporary posts of lower division clerks relating to seasonal work in the office of the Commissioner for Govt. Examinations be made without reference to the Public Service Commission, Madras.

2. Appointments to the posts referred to will be made in accordance with the rules in the annexure below to this order.

ANNEXURE.

1. The cadre of lower division clerks in the Madras Ministerial Service in the office of the Commissioner for Government Examinations, Madras, shall be increased temporarily by such number of posts and such rates of pay, not exceeding ^{monthly to minimum of Rs. 100/-} plus dearness allowance, as may from time to time be fixed by the Secretary to the Commissioner for Government Examinations, Madras, subject to the condition that the expenditure on account of such posts shall not exceed the lumpsum allotment sanctioned ^{in any year} for that year.

2. Nothing contained in the General Rules for Subordinate Services or in the Special Rules for the Madras Ministerial Service shall apply to appointments to the service in the said temporary posts.

3. Appointment to the service in the said temporary posts shall be made by the Secretary to the Commissioner for Government Examinations.

4. A person appointed to any of the said temporary

Under the latter part of regulation 18(b) of M.P.S.C. Regulations 1937

2. H.E. the Governor considered that the conditions of service of the posts referred to in paragraph 1 are matters not suitable for regulation by statutory rules.

A. on 11/2/50

not be regarded as appointed to the ... not be eligible
by kind of leave ... shall be entitled to count his service in that
wards ... increments, leave or pension in the event of his
sent to the service in any other post either before or after the
mination of his temporary appointment.

To

The C.G.E.

The S.G.P. for public
Notification.

(para 1 only)
Copy to M.P.S.C.

S.C.

58033/E/49.

EDN. DEPT. (F).

ESTABLISHMENT - Office of the Commissioner for Govt. Examinations,
Madras - Exclusion of posts of temporary clerks employed for seasonal
work from the purview of the service rules and the Madras Public
Service Commission - Orders issued.

Read again: G.O. No. 1, Public (Ser), dated 2-1-35.
G.O. No. 2181, Edn., dated 13-11-40.
G.O. No. 1704, Edn., dated 16-12-43.
G.O. No. 212, Edn., dated 5-2-46.
G.O. No. 1871, Edn., dated 26-9-46.
G.O. No. 2060, Edn., dated 25-9-47.
G.O. No. 2153, Edn., dated 1-9-48.

From the C.G.E., No. Rc.218-A/45 dated 27-7-49.

From the Secretary, M.P.S.C., No. 7427-C1/49-1 dated 25-10-49.

ORDER/MS. NO. 1467 EDN., DATED 10-5-50

Under the latter part of regulation 18(b) of the M.P.S.C.
Regulations, 1937 H.E. the Governor of Madras, hereby directs with
the concurrence of the Commission that appointments to the temporary
posts of lower division clerks relating to season work in the office
of the Commissioner for Govt. Examinations be made without reference
to the Commission.

2. H.E. the Governor also considers that the conditions of
service of the posts referred to in paragraph 1 are matters not
suitable for regulation by statutory rules.

3. Appointments to the posts referred to shall be made in
accordance with the instructions in the annexure below.

ANNEXURE.

1. The cadre of lower division clerks in the Madras Ministerial
Service in the office of the Commissioner for Government Examinations,
Madras, shall be increased temporarily by such number of posts and at
such rates of monthly pay, not exceeding the minimum of the time scale
plus dearness allowance as may from time to time be fixed by the
Secretary to the Commissioner for Government Examinations, Madras,
subject to the condition that the annual expenditure on account of such
posts in any year shall not exceed the lumpsum allotment sanctioned
for that year.

2. Nothing contained in the General Rules for the Madras Pro-
vincial and Subordinate Services or in the Special Rules for the
Madras Ministerial Service shall apply to appointments to the service
in the said temporary posts.

3. Appointment to the posts shall be made by the Secretary to the Commissioner for Government Examinations.

4. A person appointed to any of the posts shall not be regarded as appointed to the service and shall not be eligible for any kind of leave nor shall he be entitled to count his service in that post towards probation, increments, leave or pension in the event of his appointment to the service in any other post either before or after the termination of his temporary appointment.

To

The C.G.E.

Copy to M.P.S.C.

" " Pub (Ser) Dept.
(2 copies).

" " A.G., Madras.

" " Fin. Dept.

" " Legal Dept.

S.C.