

Educational (1895) Department.

ORDINARY MS.

G.O., No. 757, 752

Dated 12th Sept. 1895.

INDEXED.

9-10

[Despatch Abstract.]

MR. N. L. JONES, PROFESSOR OF PHYSICS, PRESIDENCY COLLEGE

Informing the Director of Public Instruction that he is mistaken in supposing that the further stipulation enabling the Government at any time to terminate the engagement of --, by giving him six months' notice affects the date from which his pensionable service is to be reckoned as commencing; and forwarding copy of the Proceedings to the Government of India.

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~~25 19 2 7~~
 901 27 11 94
 690 22 9 43
~~627 26 8 92~~
~~210 14 2 3 92~~
 609 14 10 89
~~575 22 10 11~~
~~211 22 1 89~~
 644 11 9 94
~~2780 22 20 90~~
 652 14 9 94
~~242 11 11 94~~
 701 4 11 90
 621 26 8 92
 570 11 9 89
 360 22 6 89
 775 11 2 89

Madras, 31 July 1895.

No. 8188.

From

THE HONORABLE MR. D. DUNCAN, M.A., D.Sc.,

DIRECTOR OF PUBLIC INSTRUCTION,

Madras,

To

THE HONORABLE THE CHIEF SECRETARY TO GOVERNMENT,

FORT ST. GEORGE.

Sir,

With reference to G. O. N^o. 506, Educational, dated, 18 June last, I have the honour to point out that the terms of the permanent retention of Mr. R. L. Jones in the Madras Educational service as per Government of India's letter, N^o. 221, of the 27 May 1895, are not in accordance with the Despatches of the Secretary of State for India on the subject.

2. In para 2 of their letter to the Secretary of State, N^o. 28 of the 30th January last, the Government of India recommended that Mr. Jones's past service might be reckoned for

for the purpose of leave and pension as
proposed by the Government of Madras.
The Secretary of State, in his Despatch,
N^o. 18 of the 21st March 1895, Public,
Educational, sanctioned the continuance
of Mr. Jones on the conditions recommended
and subject to the further stipulation
laid down in his Despatch, N^o. 17 of the
14th idem. It will be manifest therefrom
that in none of the Despatches did
he intend to deprive Mr. Jones of
the benefit of his past service. But
in communicating these Despatches,
the Government of India added that
Mr. Jones will be awarded gratuity
or pension appropriate to the length
of his service commencing from the date
of extension of the five years' engagement.
The circumstances under which this
addition was made are not clearly
understood.

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understood.

3. In all agreements, that I know of,
entered into between the Secretary of
State and officers appointed by him
to this Department, it has been provided
that if the officer concerned shall
continue to serve Government for more
than five years from the date of his
reporting his arrival at Madras, his
service commencing from the date of his
entering on the performance of his
duties shall count as service towards
leave and pension under such rules
as regards leave and pension as may
for the time being be applicable
to his case. A similar provision will be
found in the agreement executed by
Mr. H. J. Allen, Professor of History,
Presidency College, the last officer
appointed by the Secretary of
State for a term of five years only.
But unfortunately by some mistake

Mr. Jones's covenant did not contain such a concession. Mr. Jones, I believe, is nevertheless entitled to all the privileges allowed to educational officers similarly circumstanced. Mr. Havell, late Superintendent of school of Arts, was, for instance, re-engaged in 1889, under a similar condition.

4. In these circumstances, I request that Government of India may be moved to reconsider and cancel the additional restriction imposed on Mr. Jones.

I have the honour to be,

Sir,

Your most obedient servant,

J. Duncan

Director of Public Instruction

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FOR ORDERS

I submit that the

Director of Public Instruction has

mistaken the meaning of the Govt. of

India's letter. His interpretation is

that the effect of the further condition

required by the Secretary of State will

be that Mr. Jones' pensionable service

counts from the date of the extension

of his five years' engagement. The

letter of the Govt. of India addressed

to the Secretary of State however

recommended ^{the} permanent retention of

Mr. Jones in the Madras Educational ser-

vice, his past service being reckoned

for the purposes of leave and pension.

The Secretary of State expressed his

approval of the proposed ^{with} retention under

the conditions specified but subject to

the further stipulation prescribed in

his despatch relating to the case of

Messrs Halliday and James of the Bengal

service. This stipulation empowers the

Govt. at any time to terminate their

engagement by giving six months'

notice and according to the gratuity
or pension appropriate to the length of
service performed by them respectively.

No copy of the letter of the Govt. of

India relating to the case of these

two gentlemen has been communicated

to me and the exact meaning of the

next paragraph of the Secretary of

State's despatch regarding them cannot

be ascertained. The paragraph runs

"It will be in Your Excellency's

recollection that a stipulation of

this character was proposed in Lord

Cecil's despatch No. 9 of the 15th Jan.

1891. In the event of your Govt.

adopting this suggestion for British

officials generally, it would

probably apply after the 11th year

of service to Messrs. Halliard and

Jones by virtue of the 4th of the

conditions specified in your letter

under reply, but there seems to be

no reason why its application should

be postponed for 6 years. What the

4th condition specified in the Govt.

of India's letter is we do not know.

It is possible that the proposal

was to re-engage these gentlemen for

a period of 6 years certain giving

them the option of remaining

permanently

permanently in the service there-
after, but whatever the explanation may
be, there seems no doubt that the Secre-
tary of State's decision that the appli-
cation of this stipulation should take
place at once does not affect the date
from which their services count for
pension. The last sentence of the Govt.
of India's letter to us speaks of this
last condition as having effect from the
date of extension of the 5 years' engage-
ment made with Mr. Jones. I regard this
as a ~~misleading~~ remark inserted, merely
because some doubt had arisen in the case

of Messrs. Halliard and Jones. I do not see
how it can be taken to have the effect
of making Mr. Jones' pensionable service
date from the extension of his original
engagement. If this were the case, the
Secretary of State would not have said
"I approve the retention of Mr. Jones
under the conditions specified by you
but subject to the further stipulation"
he could clearly have said "I approve
of Mr. Jones' retention on the conditions
specified by you as modified by the
stipulation that he be liable to
be retired at six months' notice with the
grant of the gratuity or pension"

appropriate

appropriate to the length of service performed by him from the date of his re-engagement. That is to say it should have been made perfectly clear that the Secretary of State did not accept the Govt. of India's recommendation that Mr. Jones' past service should be reckoned for the purpose of leave and pension. The wording of the letter of the Govt. of India shows that this is the interpretation which that authority has put upon the despatch, for it expressly speaks of the Secretary of State having sanctioned Mr. Jones' permanent retention on the conditions specified in the Govt. of India's Despatch and on the further condition that Govt. may at any time terminate the engagement by giving 6 months' notice and awarding him the gratuity or pension appropriate to his length of service. If the hon'ble Member accepts this interpretation of the despatch as correct, it will presumably suffice to pass the following order

Yes, I am now in the position.

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Order

Educational Dept

2 months
ORDER 8/12 5 September 1895, at 751.
DESPATCH

25
4/9

The Director of Public Instruction is mistaken in supposing that the further stipulation enabling the Govt. at any time to terminate Mr. Jones' engagement by giving him six months' notice affects the date from which his pensionable service is to be reckoned as commencing. One of the conditions specified in the letter of the Govt. of India recommending his permanent retention in the Madras Educational service was that his past service should be reckoned for the purpose of leave and pension. The Secretary of State approved Mr. Jones' retention under the conditions specified by the Govt. of India and the further stipulation which he imposed cannot be interpreted as nullifying one of the conditions. The remark "which is to be found in Mr. Lucon's letter dated 17th May 1895, No. 111, Home Dept., Madras, to the Govt. of India" is not a condition of Mr. Jones' engagement with the Govt. of India but a statement of fact.

Terminating Mr. Jones' salary at any time
 after that date to discharge on six
 months' notice. The gratuity or pension
 to which he would then be entitled would
 be calculated on his total service
 from the date of his first engagement.

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*Mr. Jones' ^{past} service in the
 Educational Dept.*

H.M.

(For Orders)

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To
 The Director of Public Instruction
 copy to the Accountant-General

Dep't. 21/9/95
 India, Home Dep't., with reference to
 1st letter dated 20th May 1905, No. 21

I may be wrong, but the same to me
 [the a perfect plain case and with
 regard to which the committee had
 the highest doubt. Dr. Duncan is
 known a much better master of
 the English language than I am,
 and there may be in it a touch
 of the truth & the lack of right sense
 meaning which is not apparent
 to my less sensitive mind.
 He can do I understand at his
 ease.
 The Govt. of Madras recommended
 the retention of Mr. Jones in
 his post service (which is

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 11-11-05

DEPARTMENT.

C. No.

FOR ORDERS.

his first five years engagement) being retained
 for the purpose of later and pension. This
 is the same engagement and can be taken else.
 This was suggested by the G. O.

The Govt. of Madras distinctly sanctioned that
 Mr. Jones should be taken into the
 "pension" under the condition specified
 by you "which can change more easily
 than than that Mr. Jones shall be
 retained in the public service from and
 counting from time for leave and
 pension from the time that he first
 took charge of his office then case
 I submit to the Madras Government which
 can be attached to that word.
 This would put Mr. Jones on the
 same footing as any other servant of
 Govt. i.e. that he could not be retained
 on pension or gratuity until he had
 reached 50 years of age, or unless
 he was entitled to the public service
 further service or his office was

abolished and no other suitable employment
could be found for him.

Mr. Jones' agreement did not contain
anything with regard to his continuing
in the service after his five years term
up and at the end of the five years
it became void as regards his staying
in it. The S. & S. did not sanction
a renewal of it but the permanent
employment of Mr. Jones in the
service of Govt. and wishing to
be in a position to do any work
at all of an S. & S. Officer of land
was desired to be discharged with him
he laid down as a condition of
his permanent employment that
he might be at any time
during the last of his service
be pensioned off receiving that
pension or gratuity appropriate to
the length of service performed
by him that is the time that he
has been in the service from the date
he was first engaged for the
purpose of leave and pension.

Now this time is not definitely
set out from the end of
the five years engagement. It would
clearly seem from the day that
Mr. Jones assumed charge of the

FOR ORDERS.

[13]
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DEPARTMENT.

C. No.

FOR ORDERS.

afforded in the first instance and
all that the last sentence of the letter
of the G. & J. conveys to my knowledge
shall perception is that beginning with
the day on which Mr. Jones was
pensioned permanently into the service
of Govt. he became liable at any
time to be retired on his monthly pension,
receiving then so much the pension or
gratuity appropriate to 5 years of time
from date of his period to date of his
monthly pension. I cannot conceive how
Mr. Duncan or any one else could
put any other construction upon
what has been said. To my mind it
is perfectly plain and there is no
doubt about it.

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9/5/55

Mr Jones

FOR ORDERS

Hon Inhouse

When given for copying _____
When copied _____
When examined _____
When signed _____

188

State of G.O., No. _____
188

188

Order No. _____

Examination by G. No. _____

Order of Government

A A A A A A A

Letter of Government

Statement with notes

Form not filled in, when subject has submitted
or corrected.

R.R.—

A on Copy to fill.
B on What to be copied.
F on Copy almost only.
Q on Copy handling only.

188
R 11/7