

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

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32-33	
Dated 5-2-1918	

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*Proceedings of the Madras Government, Judicial Department,
5th February 1862.*

No. 32. Read the following letter from A. J. ARBUTHNOT, Esq., Commissioner for the Uncovenanted Civil Service Examination; to the Chief Secretary to Government, Fort Saint George, dated 17th January 1862, No. 55.

I have the honor to acknowledge the receipt of the Proceedings of Government in the Judicial Department, under date the 11th ultimo, No. 1,521, calling for my remarks on a letter from the Registrar of the Sudder Court regarding the special test of qualification to be demanded from candidates for employment as Pleaders and District Munsiffs, and the course to be taken with reference to the cases of several District Munsiffs who are now holding their appointments conditionally on their passing examination.

2. In this letter the Judges of the Sudder Court point out, that previous to the passing of the Uncovenanted Service Examination rules of 1858, candidates for Pleaderhips and Munsiffships were subjected to a special examination, of a comparatively elementary character, and that this examination was superseded by the test prescribed in 1858 which has since been abolished, and which in consequence of its requirements including a knowledge of the English language has been passed by few or none of those persons who have been appointed to District Munsiffships since it was introduced. The Judges propose to dispense with any special examination in the case of such of the Officers now holding their appointments conditionally as may be considered by the Zilla Judges in whose jurisdiction they are serving to have given practical proof of their efficiency; and in regard to future candidates, they recommend that persons who entered the public service before 1855 should be promoted to the office of District Munsiff on passing

The Code of Civil Procedure.
The Rules of Practice—Civil.
Strange's Manual of Hindu Law.
Sadagopah Charlu's Manual of Mahomedan Law.

an examination in the subjects noted in the margin, on all of which Vernacular treatises are now available; and that a somewhat more complete test, including the Law of Evidence, Criminal Law and Procedure, and the Law of Contracts and Torts should be applied as soon as the requisite text books in the Vernacular languages are prepared.

3. Under the circumstances, it appears to me to be desirable that such of the officiating District Munsiffs as may be considered by the Zilla Judges to have given practical evidence of their fitness for their duties should be at once confirmed in their appointments without examination. For reasons, which I will state presently, it does not seem advisable to hold a special Judicial examination during the present year, and it would not be fair to keep men who have done their work well, in suspense for so long a period. The same course, I think, should be taken in regard to any Pleaders who may be in a similar position.

4. For future candidates I would propose the following rules:—

1st. That persons now in the public service and who entered it before the 1st January 1859 and who from ignorance of English may be unable to pass an examination conducted through the medium of that language, shall be declared eligible for the office of Pleader or Munsiff on passing an examination conducted through the medium of the Vernacular languages in the following subjects:

1st. The Law of Evidence (as contained in Kindsley's Manual).

2nd. The Codes of Civil and Criminal Procedure with the Rules of Practice.

3rd. The Penal Code.

4th. Hindu Law, (as contained in Strange's Manual).

5th. Mahomedan Law, (as contained in Sadagopah Charlu's Manual).

2nd. That persons who had not entered the public service on the 1st January 1859, or who desire to pass their examination in the English language, shall be declared eligible for the offices in question either on obtaining a Degree of Law in the University of Madras or in any other Indian University, or on passing an examination under the direction of the Commissioner for the Uncovenanted Civil Service examination in the following subjects:

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- 1st. The Law of Evidence.—Norton.
- 2nd. The Code of Civil and Criminal Procedure with the Rules of Practice.
- 3rd. The Penal Code, as illustrated by Mayne.
- 4th. The Law of Contracts, as contained in Sawyer's Manual.
- 5th. The Law of Torts and the Measure of damages, as contained in Broom's Commentaries on the Common Law, pages 628 to 863—Edition 1856.
- 6th. Hindu Law, as contained in Strange's Manual and the 1st Vol. of Strange's Hindu Law.
- 7th. Mahomedan Law, as contained in Sadagopah Charlu's Manual.

5. I name the 1st January 1859 as the date, which in the case of public employes, is to determine which of the two standards, they shall be required, to pass; on the ground that all who have entered the public service since that date had notice that in order to qualify for any of the offices under consideration, they must pass an examination fully equal to the higher of the two now proposed, and that such examination would be conducted through the medium of the English language. I would also require Europeans, East Indians, or Natives who may prefer to answer the questions in English, to pass according to the second of the two tests above proposed. For such persons the requisite text books are, and for some time past have been, available, and it is not too much to require that they should pass the higher test. I would rank the two classes of candidates in two separate grades, thereby giving an advantage to those who pass the higher test, and I would place in a still higher class the University Graduates in Law, declaring them eligible, as far as a special Judicial examination is concerned, for any appointment in the Judicial Department to which Officers of the Uncovenanted Civil Service can be appointed under the existing Law. The qualifications to be demanded from Pleaders or Advocates in the High Court will have to be determined when that Court shall be constituted.

6. I would recommend that the first examination to be held under these rules be postponed to February 1863, in order that time may be given for the preparation of vernacular translations of Kindersley's Manual of the Law of Evidence. If immediate arrangements be made for procuring translations of this work, they may be executed and published in two or three months, in which case candidates will have sufficient time to study the work before the examination takes place. This course, it appears to me, is preferable to holding an examination at an earlier date, omitting the Law of Evidence which is in point of fact the most essential branch of legal knowledge.

7. In the list of text books for the higher standard of examination, I have substituted Mr. Norton's for Mr. Kindersley's work. It is more full, but not on that account, I think, more difficult. It was the work named under the former rules and has been adopted for the Judicial examinations in Bengal, as also, I believe, in Bombay.

8. I would only remark in conclusion that it appears to me of great importance that every effort should be made to secure a knowledge of the English language on the part of candidates for employment as District Munsiffs or as Pleaders in the Courts. As a general rule, the attainments to be demanded from a Munsiff should be such as to qualify him for the higher office of Principal Sudder Ameen. The latter office is now, I believe, practically restricted to persons acquainted with English; and it seems desirable that this qualification should be possessed by as many as possible, of the class of Judicial Officers from which the Principal Sudder Ameen are selected. This object will, I think, be attained by the rules now proposed. The privilege of being placed in a higher class of passed candidates will operate as an incentive to passing according to what I may term the English standard of Judicial examination, and at the same time deserving public servants who have not had the means of qualifying for this standard, will not be altogether debarred from promotion.

9. Drafts of a Notification containing the rules now proposed, and of an advertisement regarding translations of Mr. Kindersley's Manual of the Law of Evidence, are annexed.

*Proceedings of the Madras Government, Judicial Department,
5th February 1862.*

- No. 33. ORDER THEREON, 5th February 1862, No. 175.
- Communicated to the Sudder Court, in reference to their letter, 4th December, No. 125.
2. The Government sanction the measures proposed by the Commissioner for the Uncovenanted Civil Service Examination, in respect to the test for candidates for employment as Pleaders and District Munsiffs, &c.
 3. The Notification and Advertisement submitted will be published in the Fort Saint

(Signed) T. PYCROFT,
Chief Secretary.

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N^o. 175. 5 Feb 1862.

Communicated to the Sud-
der Court, in reference to
their letter, 4th Dec^r, N^o. 125.

2. The Govt. sanctions the mea-
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missioner for the Uncovenant-
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didates for employment as
Pleaders & District Mooniffs,
&c.

3. The Notification & Advertise-
ment submitted will be
published in the Port St. George
Gazette.

The Sudder Court,
Commissioner for the
Uncovenanted Civil Serv. Examination

1860
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Judicial 1802 Light

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Proceedings of the

Madras Government

Dated 5th Feb 1862

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