M.R.O. 1—82,000—16-10-48.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 453 Press Mis

171-173

Dated 22 - 3 - 19-1865

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JUDICIAL DEPARTMENT.

No. 453.

To

THE HONORABLE SIR C. H. SCOTLAND, KNIGHT,
Chief Justice of the High Court of Judicature at Madras.

HONORABLE SIR,

I am directed to transmit, for the consideration of the Honorable the Judges of the High Court, and for such notice as they may deem proper, the accompanying letters from P. Samy Ayien, a Pleader in the Civil Court at Chingleput, who has passed the test prescribed for District Moonsiffs, according to the Rules laid down in 1862, complaining that he has not been able to obtain the appointment of District Moonsiff, while, in more than one instance, persons who have not passed the prescribed test have been nominated to that office.

Dated 18th November 1864, and 25th January 1865.

I have the honor to be,
Sir,
Your most obedient Servant,

FORT SAINT GEORGE,
22*nd March* 1865.

Chief Secretary.

From P. SAMY AYIEN, Pleader, Civil Court of Chingleput, and a passed Candidate for the Office of District Moonsiff, and Pleader through the medium of the English language, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Coimbatore, 18th November 1864.

With due respect and submission, I request your honor will be pleased to lay this Memorial before the Governor in Council, and get justice done to me as well as to the public.

2. There is not the least doubt that the object of the examination rules is solely to encourage learning, and thereby make the subjects and servants of Government virtuous and independent.

3. The Government is perfectly aware of the extraordinary nature of labor to be experienced by candidates preparing themselves for several examinations under the recent rules; and yet a considerable laxity against the strict object of these rules has been brought into play by the importunities of the several Judges and Collectors in the Mofussil, in the cases of their favorites.

4. The ordinary excuse these gentlemen make to passed candidates is that they do not know them. Why should these gentlemen know them who have been publicly gazetted as eligible for the office they apply for? The reason of such knowledge, and no knowledge in the employer, is alleged as a guarantee for the honesty of the employed. This is a fallacy, for, a man dishonest to-day may turn honest to-morrow, and *vice versa*; and there was not even one instance, in which an employer was held responsible for the offence committed by one employed by him with a certificate of honesty. The Law makes every man personally responsible for his own acts, whether he bore a good or bad character previously.

5. The Government have expressly invited and induced the public to qualify themselves for public service. Accordingly, the people do qualify with great labor and expense, and even neglecting to qualify themselves for any other profession. If, after such trouble, a man was to hang upon the mercy of a Judge or Collector, how unfortunate must be his position then! It is true that the Government did not undertake to pay all that pass; but this much the Government must do them, viz., whenever vacancies occur in the offices for which a man has passed, he must have a right to fill it. But a difficulty arises as to which of the several passed persons is to fill it, yet the enforcement of the following suggestion settles the matter at once, viz.:—when an office falls vacant, the first, in preference of all other applicants, must fill it, unless there be some special legal grounds to disqualify him to hold it; then the next applicant should of right fill it, and so on, and the persons passed through English being always preferred over those through Vernacular.

As for me, I am practising as a Vakeel in several Courts since 1855, and ever since I had no means of promotion, because I had the favor of no Judge or Collector, although I was able enough, like any other public servant. With a double motive of proving myself useful to the public, and making myself known to the Government and the Judges, and thus acquire a better right of promotion over others, I published a Tamil Law of Evidence and the Tamil Translation of Mayne's Commentaries on Penal Code, and am now publishing Norton's Law of Evidence in Tamil, and also succeeded in the special test for the office of District Moonsiff, and Pleader through the medium of the English language. The office of the District Moonsiff of Palmanair in Chittoor Zillah being vacant, on account of the officiating individual having failed to pass the required examination, I visited the Judge of Chittoor, on the 6th October last, and requested him to appoint me to the vacant office above mentioned, but he refused, without any ground at all; and yet he recommended the continuation of the same person in the said office, on condition of his passing the required test at any future time. A similar recommendation has been made in the case of a person who officiates the District Moonsiff's office of Trichinopoly, on the same condition. A third recommendation has been made, in favor of another person who officiates the District Moonsiff's place at Salem. I applied to the Judge of Calicut to nominate me either to Ponnany or Villiangode, where the District Moonsiff's place was vacant, but he got it to a person who passed through Vernacular, without giving me preference. I do not know how many similar importunities have been indulged in the Judicial as well as other Departments.

I, therefore, request that the Government will be graciously pleased to enforce the above suggestion, regarding all the passed candidates in general, and declare me entitled to succeed to the District Moonsiff's place in the Chittoor Zillah, or Trichinopoly, or Calicut, and do me justice.

From P. SAMY AYIEN, Pleader, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Nungumbaukum, 28th January 1865.

With reference to my application, dated 18th November 1864, I beg to bring to your kind notice that I am not still favored with an answer thereto. After that date also, the offices of some District Moonsiffs fell vacant, but they were filled without regard to the rules of Government (examination rules of 1862).

ere was a vacancy at Madura in December 1864. I applied for it, but it has n conferred on one who has passed no special test whatever. However, I supe he may have passed some old vernacular standard, over which a very great ference should be given to me, according to the said examination rules of 1862. w the District Moonsiffship of Negapatam is become vacant, for which also I have wise applied. Here too I do not suppose justice will be done to me, unless the vernment will be pleased to cause justice being done to me.

I request that the Government will, under these special circumstances, and se stated in my last letter aforesaid, and the fact that no justice has been done me o many occasions, be graciously pleased to order that I should be appointed to of the offices of Moonsiffs alluded to in my last letter, or this.

This remedy I demand in the hands of Government, not that the Government uld interfere with the appointments of Moonsiffs, but that the Government should, ts supervising, or appellate branch, interfere, and direct that their general orders duly observed by their subordinate executive officers.

J. H. Burns.

Judicial.

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