

CONFIDENTIAL.

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Judicial. (1895) Department.

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G.O., No. 15988

Confidential No 1244

DATED 30-7-95 95

[Despatch Abstract.]

Chartered High Courts

Recording letter from the Govt. of India
congr instructions in regard to the pro-
cedure to be followed in making acting
appointments to judgeships in —.

BACK PAPERS.

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CURRENT No. 3361

[Confidential.]

No. 1069

FROM

J. P. HEWETT, ESQ., C.I.E.,

Offg. Secretary to the Government of India,

TO

The Chief Secy. to the Govt. of Madras.

Home Department.
Judicial.

Simla, the 6th July 1895.

SIR,

THE question of the procedure to be followed in making acting appointments to judgeships in chartered High Courts in India has been raised in connection with certain recent acting appointments, and I am directed to communicate the following remarks on the subject for observance on occasions when such appointments have to be notified.

2. The intention of section 7 of the Statute (24 and 25 Vict., Cap. 104) appears to be that an acting appointment to a High Court Judgeship made thereunder should, unless cancelled for any cause by the Government, continue, if made "upon the happening of a vacancy," until some person has been appointed to it by Her Majesty and has entered on the discharge of the duties of office, or, if made "during any absence of any Judge," until the absentee has returned to duty. It is therefore not correct to enter in a notification making an appointment under this section any definite limit of time during which the appointment will remain in force.

3. When once an acting appointment has been made upon the happening of a vacancy, the power conferred by the section is exhausted, and, in the event of the person appointed ceasing to act, no second appointment is admissible. If, however, a person is appointed "during any absence of any Judge" and ceases to act under circumstances amounting to the cancellation of his appointment, another person may properly be appointed to act instead of the absentee. It may sometimes be desirable to appoint a person who has already officiated for an absent Judge to act for a second Judge who has subsequently availed himself of leave for a more extended period, and to appoint some one else to act during the remainder of the absence of the first Judge. In such a case it would seem to be advisable, before making the last acting appointment, to cancel the existing one, and this would ordinarily best be done by formally obtaining the tender of, and accepting, the resignation of the person originally appointed to officiate for the earlier absentee.

I have the honour to be,

SIR,

Your most obedient Servant,

J. P. Hewett

Offg. Secretary to the Government of India.

Ind. Dept.
CURRENT No. 3361

From

The Govt. of India

Home Dept.

No. 1069

Dated 6 } July 1895.
Recd 15 }
Repd 17 }
Encl. 7 sp. co. of C.

Communicating instructions
in regard to the procedure to
be followed in making ^{acting} appoint-
ments to judgeships in chartered
High Courts.

CHIEF SECRETARY
GOVERNMENT OF MADRAS
15 JUL 1895

H.R. The Governor
Mis.

Order

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30 July 1895, No. 1598

26/7/95

25 July

24/7/95

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