Local & Munl. (1897) Department.

INDEXED. CR

PRINTED.

G.O., No. 2070 M

DATED 2-9-97

DESPATCHED

[Despatch Abstract.]

Teachers in Govt. Schools transferred to Local bodies

Directing that, in modification of para: 2 of G.O. No. 472 M. Financial, of 20th May 1886, teachers in Govt. Schools whose services have been transferred with the Schools to a local body, shall have the same privileges of appeal to Govt. against an order of suspension or dismissal passed by the local body which they would enjoy, if they were still in Govt. employ.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Government {1897} of Madras.

LOCAL AND MUNICIPAL.

Recd. } 1897. *Enclosures*

Regd. *Spare copies*

G.O., No. 2070 M., 20th September 1897.

SEPTEMBER.

Teachers in Government Schools transferred to local bodies.

Directing that, in modification of paragraph 2 of G.O., No. 472 M., Financial, dated 20th May 1886, teachers in Government schools whose services have been transferred with the schools to a local body shall have the same privileges of appeal to Government against an order of suspension or dismissal passed by the local body, which they would enjoy if they were still in Government employ.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—again the following paper :—

G.O., No. 472 M., Financial, dated 20th May 1886.

ABSTRACT.—Recording, with reference to Government order quoted, letter from the Chairman, Municipal Council, Anantapur, requesting opinion regarding punishment, &c., of municipal servants, and observing that teachers in Government schools transferred to local bodies cease to be Government servants from the date of such transfer.

READ—also the following paper :—

From the Hon'ble Mr. D. DUNCAN, M.A., D.Sc., LL.D., Director of Public Instruction, to the Secretary to Government, Local and Municipal Department, dated Madras, 18th June 1897, No. 6541.

I have the honour to inquire whether G.O., No. 472 M., dated 20th May 1886, is to be considered as having been cancelled in view of the fact that G.O., No. 1400, Financial, dated 23rd June 1884, has been cancelled in paragraph 3 of G.O., No. 1472, Pension, dated 7th December 1889. The ruling contained in paragraph 2 of the first of the Government orders above referred to, viz., that teachers in Government schools transferred to local bodies cease from the date of such transfer to be Government servants, appears to have been passed with a view to bring the relations of these servants to the municipal councils in harmony with the rule of proportions contained in the second Government order in regard to their pension. As the third Government order distinctly says that the "rule of proportions" does not apply even to cases in which the schools are maintained entirely from Municipal funds, I am not quite certain whether the ruling as to the treatment of Government servants transferred with the schools is intended by Government to be still in force. While Government has been so solicitous as to safeguard the pensionary rights of these servants, I can hardly believe that it is intended that they should be left entirely to the tender mercies of the municipal bodies until they actually retire. A certain case has recently come to my notice in which a Government servant transferred to a municipality with the school bitterly complains of having been suspended and afterwards dismissed for insubordination, and has sent a memorial to this office for submission to Government. Under G.O., No. 472 M., dated 20th May 1886, above referred to, he is to be considered a municipal servant, and, as his pay is less than Rs. 50, he has no right of appeal to Government against the orders of the municipal authorities. If the above Government order is not to be considered as having been cancelled, I would suggest that orders be now passed cancelling it, and that the Government servants transferred to municipal councils be either given the benefit of section 40 (3) of the old District Municipalities Act which safeguards the interests of Government servants lent to municipal councils on a formal application from these bodies for their services, or placed on the same footing as medical officers in municipal service.

ORDER—No. 2070 M., dated 20th September 1897.

In modification of paragraph 2 of G.O., No. 472 M., Financial, dated 20th May 1886, His Excellency the Governor in Council is pleased to direct that teachers in Government schools, whose services have been transferred with the schools to a local body, shall have the same privileges of appeal to Government against an order of suspension or dismissal passed by the local body, which they would enjoy if they were still in Government employ.

(True Extract.)

G. S. FORBES,
Secretary to Government.

To the Director of Public Instruction.
" all Chairmen of Municipal Councils.
" all Collectors.
" all Presidents of District Boards.
" the Educational Department.
" the Financial Department.

Exd. C. M. Thumbuswamy.

Government {1897} of Madras.

LOCAL AND MUNICIPAL.

Proof for approval.

Recd. } 1897. *Enclosures*

Regd. *Spare copies*

G.O., No. 2070 M., 20th September 1897.

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Teachers in Government Schools transferred to Local Bodies.

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GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

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(True Extract.)

Secretary to Government.

To the Director of Public Instruction.
" all Chairmen of Municipal Councils.
" all Collectors.
" all Presidents of District Boards.
" the Educational Department.
" the Financial Department.

Exd. C. M. Thumbuswamy.

7 1 abstract

20TH MAY 1886, No. 472 M., FINANCIAL.

GOVERNMENT OF MADRAS.

FINANCIAL DEPARTMENT.

READ—the following paper :—

From M.R.Ry. B. TEPERUMAL CHETTY GARU, Rao Shaib, Chairman, Municipal Council, Anantapur, to the Chief Secretary to Government (through the Divisional Officer, Anantapur), dated Anantapur, 22nd January 1886, No. 248.

Adverting to G.O., No. 886 M., dated 1st December 1885, Financial Department, calling for any suggestions on the rules proposed under section 250 (I) (*c*) of Act IV of 1884, I have the honor to forward, for the consideration of Government, the following questions, which the councillors of this Municipality have raised at their meeting of the 20th instant.

2. Rule II of Government order under reference empowers the Chairman of a Municipal Council to fine, suspend or dismiss all servants of such council.

3. Medical subordinates of various grades, civil and military, are working in the municipal dispensaries. Educational servants of all Government schools have now been lent to the Municipal Boards since such schools have been transferred to them. Promotions, leaves, &c., are now in the gift of the council.

4. Section 40, paragraph 3 of Act IV of 1884, says that "No Government servant employed by the Municipal Council under this section shall be dismissed from such employment without the consent of the Governor in Council or until three months' notice in writing to that effect shall have been given to the chief controlling authority of the branch of the Government service to which such servant belongs." This section only speaks of dismissals, but is silent with regard to fines, suspensions and degradations.

5. The councillors are therefore of opinion that both the Medical and Educational servants now working under the council, as above stated, are to be classed as municipal servants so long as they are paid by the municipal body.

ORDER—dated 20th May 1886, No. 472 M., Financial.

Recorded, with reference to G.O., dated 29th April 1886, No. 392 M.

2. Teachers in Government schools transferred to local bodies cease from the date of such transfer to be Government servants.

(True Extract.)

E. F. WEBSTER,
Chief Secretary.

To the Chairman, Municipal Council, Anantapur,
through the Collector.
„ all other Chairmen of Municipal Councils,
through the Collectors concerned.
„ the Director of Public Instruction.
„ the Accountant-General.
Copy to the Educational Department.

Exd. A. Raitt.

Govt. of {1886} Madras.

FINANCIAL.

Issued

Recd. *Encl.*

G.O., 20th May 1886, No. 472 M.

MAY.

Municipal Servants.

Recording, with reference to Government order quoted, letter from the Chairman, Municipal Council, Anantapur, requesting opinion regarding punishment, &c., of —, and observing that teachers in Government schools, transferred to local bodies, cease to be Government servants from the date of such transfer.

LOCAL AND MUNICIPAL DEPARTMENT.

Again G.O., dated 189 , No.

Current No. 2342 M of 1897, dated 18-6-1897 from the Director of Public Instruction.

Current No. of 189 , dated from the

SUBJECT.

FOR ORDERS.

wpp 20/6/97 20-6-97

Z In his letter read above, the Director of Public Instruction enquires "whether G.O. No. 472 M. dated 20th May "1886 is to be considered as having "been cancelled in view of the fact Y "that G.O. No. 1400 Fin., dated 28th "June 1884, has been cancelled by X "G.O. No. 1472 Pension, dated 7th De- "cember 1889" and suggests that, if it is not to be considered as cancelled, orders may now be passed cancelling it.

wpp 246 Est H.W. 26-4-83

2. In its resolution of the 11th April 1883 Nos. 3-133-44, the Govt. of India laid down that "teachers then employed in Govt. schools which might be transferred to local bodies should be held to be "still rendering service qualifying for pension" and in G.O. No.

No. 1400 Finl., dated 23d June 1884, it was ruled by this Govt. that "the cost of pension admissible "to a teacher then employed "in any Govt. School which "might be transferred to any "local body should be borne "by Govt. and the local body "conjointly, in the proportions "in which the aggregate pay "drawn by the teacher during "the whole of his qualifying service has been drawn from the two sources". The Govt. having subsequently decided in G.O. N. 876 Pension, dated 14th August 1889, that "the "rule of proportions does not "apply in the case of masters "in Govt. Service employed in Schools "transferred to the management "of local or Municipal bodies "and consequently the pension "* * * * * * * * * * * is wholly "chargeable to Provincial Revenues", G.O. N. 1400 Finl. dated 23d June 1884, above referred to, was cancelled by G.O. N. 1472 Pension dated 7th December 1889. Under the existing orders therefore, the whole pension of teachers in Govt. Schools — transferred to Municipal councils

Para-1 of the Addl. at p. 3 of P. 7 Augt. 91 ns 1874 × Flag A.

councils with the schools, is chargeable to Provincial revenues. The Director of Public Instruction considers that the ruling contained in para. 2 of G.O. N. 472 M. dated 20th May 1886 viz:- that teachers in Govt. schools transferred to local bodies cease from the date of such transfer to be Govt. servants, was apparently passed with a view to bring the relations of these servants to the Municipal Councils in harmony with the rule of proportions contained in G.O. N. 1400 Finl. dated 23d June 1884 in regard to their pension; and as this rule has been cancelled in G.O. N. 1472 Pension, dated 7th December 1889, he doubts whether the ruling contained in G.O. N. 472 M. dated 20th May 1886, as to the treatment of Govt. Servants transferred to local

local bodies with Govt. schools,
is intended by Govt. to be still
in force. He further points
out that "while Govt. has
been so solicitous as to
safeguard the pensionary
rights of these servants", it
can hardly have been intend-
ed that they should be left entirely
"to the tender mercies of the
local bodies until they actually
"retire", and states that "a certain
case has recently come to his
notice in which a Govt. ser-
vant transferred to a Muni-
cipality with the school, bitterly
complained of having been
suspended and afterwards dis-
missed for insubordination and
has sent a memorial to him
for submission to Govt;" but as
under G.O. 472 M. dated 20th May 1886,
the teacher is to be considered as having
ceased

D Please see rule 2 of the rules in
Go. No. 918 L dy 25th April 1887.
R

ceased to be a Govt. servant, and
as his pay is less than Rs 50, the
man has no right of appeal to
Govt. The Director therefore suggests
that, "if the above G.O. is not
"to be considered as having been
"cancelled, orders may now be
"passed cancelling it and that the
"Govt Servants transferred to Muni-
"cipal Councils may be given the
"benefit of sub section (3) of
"section 40 of the District Muni-
"cipalities Act IV of 1884, which
"safeguards the interests of
"Govt. Servants lent to Muni-
"cipal Councils on a formal
"application from these bodies
"for their services or placed
"on the same footing as Medical
"officers in Municipal Service.

3. In order to appreciate
the position clearly, it is neces-
sary to recapitulate the circum-
stances

circumstances which led to the
issue of G.O. No: 472 M. dated 20th
May 1886, which are briefly as
follows:-

In G.O. No: 886 M. dated 1st
December 1885, the following
draft rules framed under clause
(c) of subsection (1) of Section
250 of Act IV of 1884, for regu-
lating the appointment and
punishment of Municipal Ser-
vants were published for
information and criticism:-

"The appointment of persons to
"offices under Municipal Councils
"shall, when to such appoint-
"ments a salary of Rs. 50 and
"upwards is attached, be
"subject to the sanction of the
"Governor in Council.

"(2) The Chairman of a Muni-
"cipal council shall have
"power to fine, suspend or dismiss
all

"all servants of such council, but
"an appeal shall lie to the
"Municipal council in the case
"of all officers fined and suspend-
"ed, and in all cases of dismissal,
"a second appeal shall, in the
"case of officers whose appoint-
"ment requires the sanction of
"Govt, lie to the Governor in
"Council". On these rules, the
Municipal council of Anantapur
submitted the following remarks:-

"2. Rule 2 of the G.O. under
"reference empowers the Chairman
"of a Municipal council to fine,
"suspend or dismiss all servants
"of such council.

"3. Medical Subordinates of
"various grades, civil and military
"are working in the Municipal
"dispensaries - Educational Ser-
"vants of all Govt. Schools
"have now been lent to the

Municipal

"Municipal boards since such
"schools have been transferred
"to them. Promotions, leaves
"&c, are now in the gift of
"the Council.

"4. Section 40 para 3, of Act IV
"of 1884, says that 'no Govt. Ser-
"vant employed by the Muni-
"cipal Council under this Sec-
"tion shall be dismissed from
"such employment without
"the Consent of the Governor
"in Council or until three
"months notice in writing to
"that effect shall have been
"given to the chief controlling
"authority of the branch of the
"Govt. service to which such
"servant belongs'. This section
"only speaks of dismissals,
"but is silent with regard to
"fines, suspensions and de-
"gradations.

"5. The councillors are therefore
"of opinion that both the Me-
"dical and Educational servants
"now working under the Coun-
"cil, as above stated, are to be
"classed as Municipal servants,
"so long as they are paid by
"the Municipal body'. In para.
8 of the note for orders dealing
with the suggestions made by
the several Municipal councils
in respect of the rules above
referred to, it was remarked
as follows:—

"The Anantapur Municipal
"Council enquires whether the
"second rule is applicable to
"educational and Medical offic-
"ers of Govt., lent to the councils,
"who, in their opinion, are
"Municipal Servants. NO educa-
"tional officers are however lent
"to any Municipal Council and
those

"those transferred in the Govt. Schools
"cease to be Govt. Servants. Ordi-
"nary office clerks lent to Municipal
Condition of paying pensionary Contribution
"bodies &c must also be regarded
"as Municipal Servants for pur-
"poses of fine or suspension. They
"as well as other Govt. Servants
"lent are protected from arbitrary
"dismissal by Section 40(3) of
"the Act. But medical subordi-
"nates are not purely Muni-
"cipal Servants, in as much as
"only a portion of their salary
"is generally paid from Muni-
"cipal funds, which are not
"liable for their pensionary
"and leave allowances. It is
"suggested that a report should
"be made to the Surgeon General,
"whenever it is proposed that
"these officers should be fined
"or suspended." The view expressed
in the above note having been
accepted

by the Govt ~~Hon'ble Mem-~~
~~ber~~, the proposed rule N°2 was
modified, by providing against
the arbitrary dismissal of
Govt. Servants lent to Municipal
Councils under Section 40(3) and
by inserting a clause that in
the case of fine or suspension
of medical subordinates, a
report should be made to the
Surgeon General - Vide the rules
in G.O. N°392 M. dated 29th April
1886 as modified by G.Os 918L.
dated 25th April 1889 and 1654 M
dated 6th October 1891. Nothing
was however said in these rules
about teachers in Govt. Schools
transferred to Municipal Coun-
cils ~~by~~ with the institutions
lent G.O. N°472 M. dated 20th
May 1886 was passed on the
Anantapur Chairman's letter
above referred to, laying down
that

that these servants cease from the date of such transfer to be Govt. Servants.

4. It will be seen from the above that G.O. N: 472 M. dated 20 May 1886 had nothing to do with the rule of proportions in regard to pension laid down in G.O. N: 1400 Finl. dated 23: June 1884, and that therefore the cancellation of the latter order, cannot affect the former. It remains therefore to consider whether as suggested by the Director, the G.O. of 1884 should now be cancelled and whether Govt. Servants transferred to Municipal Councils should be admitted to the benefit of Sec. 40(3) of Act IV of 1884, which safeguards the interests of Govt. Servants lent to Municipal Councils

councils on applications made by those bodies or be placed on the same footing as medical officers in Municipal service. The position of Govt. servants transferred to Municipal Councils is entirely different from that of Govt. Servants lent to Municipal Councils and the Medical Subordinates employed in Municipal institutions. The former no doubt began their service under Govt. and as such were Govt. servants; but their transfer to Municipal councils has placed them entirely under the control of the Councils. They are paid out of Municipal funds. the grant of leave, promotions &c is in the gift of Municipal Councils and Govt. has no kind of control over them. If the

Govt.

Govt. has undertaken to pay the full pension of these servants from Provincial Revenues it is not because of any intention on the part of Govt. to treat them as Govt. Servants to the end of their service, but obviously in consideration of the fact that the transfer of such schools besides affording great relief to provincial funds, was of benefit to Govt." in all such cases by having employment found for the men and by deferring the pension payments." on the other hand Govt. Servants lent to Municipal Councils retain their lien on their appointment in Govt. Service, even when they are employed under Municipal Councils and their pensions ~~are~~ are paid out

Vide Sir Henry Stokes' Notes in G.O. 876 Pensions dy 14th August 1877. V

out of Provincial funds. Municipal Councils paying a contribution to Govt. for the purpose. The Govt. can at any moment recall such officers or they may ~~[illegible]~~ go back to their appointment under Govt. In the case of medical subordinates only a portion of their pay is met from Municipal funds, which are besides not liable for their pensionary and leave allowances, while their promotions, transfers &c are all in the hands of the Surgeon General. Although therefore it would appear that the position of Govt. Servants ~~—~~ transferred to Municipal or local bodies is not similar to that of Govt. Servants lent to such bodies or of Medical

edical subordinates employed under them, yet they are not in exactly the same position as the other ordinary servants of the Municipality. The Govt has undertaken to fine them pension and it would be extremely hard that a person who has rendered sufficiently long service which would entitle him to a pension, should be deprived of it, by a single arbitrary act of a Municipal council or a local board. It is therefore submitted that the G.O. of 1886 may be modified, so as to provide that in the case of the dismissal of servants transferred to Municipal Councils or local boards, such servants should have a right of appeal to Govt.

J.R
24/8/97

Jagger
BS
10/9/97

If and when a teacher transferred to a Municipal Council is entitled to pension in whole or in part chargeable to Provincial revs he shd have the same right of appeal to Govt against an order of dismissal or suspension passed by the Mun. Council as if he were still in Govt employ.

S.R 30/8/97

To I see no objection to this: the Fin Dept no. appears to think that Govt is competent to lay down any rules that it pleases on this subject. The persons affected by the case rarely be numerous and the number will steadily decrease

to
2/9/97.

To Hon. S/Z 8/9/97

[L & M.]
50—30-6-97.

LOCAL AND MUNICIPAL DEPARTMENT.

Papers to be read in proceedings :—

25

Again G.O., No. dated 189 .

Again G.O., No. 4724 dated 20-5-~~1886~~ ~~189~~ .

Current No. 2342 m of 1897, dated 18-6-97, from the Director of Public Instruction

" " " 189 , " , "

" " " 189 , " , "

38

P.S.

ORDER. No 2070 M, d 20-9-97.

In modification of paragraph 2 of G.O. No 472 M. Financial, dated 20th May 1886, His Excellency the Governor in Council is pleased to direct that teachers in Government schools whose services have been ~~transferred~~ with the approval to local bodies shall have the same ~~privileges~~ of appeal to Government against an order of suspension or dismissal passed by the local body which they would enjoy if they were still in Government employ.

(From orders)

15/9/97

20/9/97

The Director of Public Instruction 1/11 Dispt 8/10/97
All Chairmen of Municipal Councils ✓
" Collectors Dispt 8/10/97
The Educational Department Do
" Financial Department. Dispt 8/10/97

+ Dispt 7/10/97

650

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Despatched in print. 7-10-97
8-10-97

AGAIN G.O. No. 472 Mil DATED. } P
1896

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SLIP No. 234 24

ADDRESSED TO C. No.

GOVERNMENT

GOVERNMENT

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