[L. & M. 5,000—5-4-98.]

Local & Munl. (1898) Department.

MISCELLANEOUS.

G.O., No. 773 M.

DATED 18-4-98

INDEXED.

[Despatch Abstract.]

PETITION:

Stating that the punishment of suspension inflicted on W.Murugesa Mudaliyar, Second Assistant Master, Municipal High School, Walajapet, cannot be upheld; directing that an allowance equal to one-half of the salary to which he would have been entitled if he had continued to hold his appointment, be granted to him for the period of his absence from duty; and informing the petitioner that his request for an increase in his salary cannot be complied with.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Cir.	2782	4/98					

Local & Munl. (1897) Department.

CURRENT No. 2124.2.

From H. A. Sim Esq. I.C.S.
Off. Private Secretary to
H.E. the Governor.

No. 724. of 5th July. 1897

~~Order~~

Referred to the municipal Council of Walajapet for remarks, which should be submitted through the Director of Public Instruction.

(Sd.) F.S. Forbes
Secretary to Govt.

No.

Dated 28. May. 1897
Received 2. 6. 97
Registered
Enclosures 3
Spare copies.

To The Chairman Mun. Walajapet.

SUBJECT.

Transfer petition dy 25th May 97. from N. Murugesa Mudaliyar 2nd Assistant Master, Municipal High School, Walajapet, praying that his suspension by the Municipality may be declared illegal & he may be given his full pay with arrears.

(By order)

(Signed) H. A. Sim.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

XXII

Local & Munl. (1897) Dis. Department.

Petn enclosed in Sep 1897

CURRENT No. 2124 M

Reg No. 373.

A 8-7-97

From Hasim Esq SLS
Ag. Private Secretary to
H.E. the Governor.

No. 724 dated 5th July 1897
~~Order~~

Referred to the Municipal Council of Walajapet for remarks, which should be submitted through the Director of Public Instruction

No.

Dated 28th May 1897

Received 2. 6. 1897

Registered

Enclosures 3.

Spare copies

Secretary to Government

1.8
3/7/97

SUBJECT.

Transfers a petition dy 25th May 1897 from W. Muruyesa Mudaliar 2nd Assistant Master Municipal High School, Walajapet praying that his Suspension by the Municipality may be declared illegal & he may be given his full pay with arrears.

(By order)

To be placed before the meeting, with all connected references.

VIDE RESOLUTION
No. 6 Dated 19-11-97

To The Chairman, Municipal Council
Walajapet.

19/6

Asst Private Secretary

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

LOCAL & MUNICIPAL DEPT.
RECEIVED 2 MAR 1897

To

His Excellency
The Governor-in-Council,
Fort Saint George
Madras

May it please your Excellency,

I, V. Murugesa Mudaliar, 2nd Assistant Master, Municipal High School, Vellajapet, most respectfully beg to submit the following for your Excellency's favourable consideration and disposal, with the full hope of justice.

2. I am a Government servant. My qualifying services have been transferred to the foreign service of the first kind on the orders of Government on public grounds in 1883. I have been, for special reasons, exempted from payment of contribution and am allowed to draw my whole pension from Provincial Revenues. My promotions, transfers, punishments &c are entirely governed by the various Articles of the Civil Service Regulations fully quoted in my two letters to the Director of Public Instruction, dated 14th September 1896 and 25th May 1897 respectively (Exhibits A and B enclosed). A kind perusal of them will surely convince your Excellency that I am entirely a Government servant

under the entire control of the department.

3. While so, the Chairman and the Council of this municipality, out of malice, first, suspended me on an unfounded charge of insubordination; Secondly, reduced my pay Rs 40, sanctioned by the Government, to Rs 35, on fallacious grounds and lastly dispensed with my services without any notice. All these were done, I beg to say, without the least knowledge of the authorities concerned and in entire violation of the orders of Government (too numerous to be detailed here). I was thus unlawfully kept without employ for about two years and four months.

4. At last on the 18th February 1896, I was restored to my former appointment with a reduction in my sanctioned pay. Soon after my restoration, I submitted a memorial (a duplicate copy is herewith forwarded) to your Excellency through the Director of Public Instruction, the Head of my department, who returned it to me three on two simple observations. I beg to invite your Excellency's particular attention to my two letters (Exhibits A and B herein enclosed) in which I have attempted to meet the Director's observations as clearly as possible.

5. I therefore most humbly request that your Excellency will be pleased to show due sympathy and mercy towards me in regard to my unfortunate case and do me even handed justice by going through the copies of my memorial (original submitted through the Director along with this) and of my said letters addressed to the Director of Public Instruction.

I beg to remain

25th May 1897
Wallajapet

Your Excellency's most obedient servant
M. Muruvaya Vandaiar

"Duplicate"

TO

His Excellency the Right Honorable
Governor-in-Council,
FORT St. GEORGE.

(Through the Director of Public Instruction)

The humble petition of W. Murugasa Moodaliar, 1st Assistant Master Municipal Middle School, now 2nd Assistant Master, Municipal High School, Walajanagar.

Most Respectfully Sheweth,

That petitioner joined Educational Department in 1872 as the Head Master in the Anglo-Vernacular School at Sholingur and served there for four years on a salary of Rs. 28 per mensem. In the new organisation of Middle Schools in 1876, the petitioner was appointed as the Head Master of a third grade Middle School at Tirupati on Rs. 30 to 35 and thence after four years' service, he was transferred to Chittoor High School as an Assistant Master, where he served for one year and then he was sent to the 3rd Grade Middle School at Karvatinaggar as Head Master and was there for two years.

2. That petitioner was, then in 1883 on his own request, transferred to this 1st Grade Middle School as the 2nd Assistant Master on the same salary of Rs 30 to 35. Though the Petitioner's legitimate work was to teach the 1st Form, the then 3rd class, he was put in charge for sometime of the 2nd Form, the then Lower 4th Class and for sometime in charge of the Telugu Division of the 3rd Form, the then Upper 4th Class and that on the same pay of Rs 35. When the school was raised to a High School in January 1887, the petitioner was ranked as the 3rd instead of the 2nd Assistant, but without any change in his starting pay of Rs 35. Pleased with the hard work of the petitioner and with the good results, produced by him, year after year, his Educational Superiors recommended him to the Municipal Council for an increase of pay. At a Meeting of the Municipal Council held on the 21st July 1888, which was attended by almost all the Members, the Council was pleased to raise his pay from Rs 35 to 40, with retrospective effect from the previous April. (Vide Enclosure No I, and statements II B under Grant II Education from 1889-1890 to 1893-94) This increase was approved of by the Educational authorities and sanctioned by Government. When the Council proposed opening the Upper Secondary Class and in consequence appointing a fresh

2nd Assistant, the petitioner was, in the Budget for 1890-91, ranked as the 4th: instead of the 3rd: Assistant on Rs40 alone on consideration that he is a Government Servant of long standing. This was again approved of by the Director of Public Instruction and sanctioned by Government. (Vide Budget extract under grant II enclosed and marked No: II)

3. That the grade of the petitioner having now been raised to Rs 40 to 50 on the 1st April 1888, he became eligible for the biennial generous increment of Rs 2 from the 1st April 1890.

4. That Petitioner being a Government Servant lent to the Municipality when the School was transferred to it as Trustees under Section 25 of Act IV of 1884 by the G O, No: 1768 dated 17th August 1883, which states that Government teachers should enjoy all the privileges allowed to them and that they should not suffer any hardship in consequence of this transfer to the Local Bodies, the petitioner was recommended for the said increment on different occasions by late Doctor John Bradshaw, M. A. L, L. D. and George Bickle, Esqr:, the then Inspector and the Ag: Inspector of Schools, Central Circle, Madras, and by Mr N. Daivasigamani Moodaliar Avergal, the then Ag: Assistant Inspector of Schools, 6th Division, Vellore, but their recommendations were of no avail. (Vide Copy of Endorsements enclosed and Marked No III).

5. That, meanwhile, the school was reduced to a 1st Grade Middle School in the beginning of the Official Year 1891-92. (Vide Para 20 of the Budget for 1891-92) The Petitioner was then ranked as the 1st Assistant and the salaries of Masters were fixed according to the Gant-in-Aid Code and Educational rules, (Vide statement II. B under Grant II Education for 1891-92), which then took the place of Standing Orders. (Vide letters of the Director of Public Instruction Nos. 69. B. B. and $\frac{\text{B. B.}}{1110}$ dated 28th January 1889 and 20th December 1890 respectively).

6. The Petitioner's pay being unaltered even in the said arrangement, H. B. Grigg, Esqre, M.A, the late Director of Public Instruction, recommended the Petitioner for the last time for the increment due, in his honor's Endorsement No. $\frac{3264}{23\text{-}3\text{-}91}$ and in his honor's subsequent reminders Nos $\frac{5017}{4\text{-}5\text{-}91}$ and $\frac{6141}{28\text{-}5\text{-}91}$. The Municipal Council was then obliged to sanction, in its meeting held on the 5th September 1891, the increment of Rs 2 from 1st August 1891 and promised to provide for the arrears due from 1st April 1890 to 31st July 1891 in the next Budget for 1892-93 (Vide copy of Minutes of Proceedings No, 6 dated 5th September 1891, enclosed and marked No. IV).

7. That the Petitioner was receiving Rs 42 per mensem for 8 months that is, till the 31st March 1892. While so, the then Chairman submitted to Government a proposition statement for revision of establishment with his letter No. 337 dated 11th November 1891, through the late Director of Public Instruction who also in his honor's turn recommended, in his honor's letter No. 2280 dated 20th February 1892, the said increment to be sanctioned. But Government in its Order dated 16th March 1892 No. 498 M. Mis, withheld the increment of Rs 2,

owing to the reduced strength of the School. (Vide G. O, dated 16th March 1892, No. 498 M. Mis.) and sanctioned only Rs 40 which the Petitioner was drawing from the 1st of April 1888 till the 15th of October 1893, no change having been made in his pay even in the Budget for 1893-94. When Government remarked in their Order No. 1449 M. dated 9th September 1891 that expenditure on Secondary Education was excessive, even then the Council cut short other expenses without disturbing the pay of the Petitioner on consideration that he is a Government Servant. (Vide extract from Budget for 1892-93 enclosed and marked No. V and the statement II B,)

8. That on the 15th October 1893, the late chairman, Mr Vadaghiri Iyer Avgl, illegally suspended the Petitioner on an unfounded charge of insubordination without a word of explanation from him and even without any reference to the Educational Authorities. The Petitioner thereupon submitted on the 15th January 1894 a printed petition with all the Records to Your Excellency for justice through the Honorable Mr: A. Munro, the late Ag: Director of Public Instruction with the favourable remarks of the then Assistant Inspector and the Inspector of Schools and it stands undisposed of as yet.

9. That Petitioner also submitted a registered Appeal to the Municipal Council on the 13th January 1894 against the suspension order of the late Chairman, in virtue of G O, dated 6th October 1891, No 1654 M Local and Municipal, who dealt with the petitioner as a pure Municipal servant. This appeal still remains undisposed of. In support of the Petitioner's contention that he is a Government servant lent provisionally to this Municipality, he begs to draw Your Excellency's kind attention to a few of the authorities already quoted in para 20 of his printed petition dated 15th January 1894 and to G. O. dated 8th January 1890 No. 19L. Local and Municipal and also to the Proceedings of the Director of Public Instruction Nos, 6438 and 2047 dated 30th September 1885 and 16th October 1891 respectively in withdrawing 2 of his co-teachers lent along with him to this Municipality.

10. That while the Petitioner was under suspension, a draft Budget Meeting for 1894-95 was held. The then Chairman delegate, M. R. Ry. M. Sundaresa Iyar Avgl, who was in very bad terms with the petitioner, in co-operation with his friends M. R. Ry. C. Kothandarama Naidu Garu, the Sub-Assistant Inspector of Schools, Walaja Range, thoroughly revised the draft Budget sent to the Municipality by the Inspector of Schools, without the least necessity for doing so, on fallacious grounds that the School is a Second Grade Middle School under the Standing Orders, long ago repealed, that the increase of Rs 5 granted to Petitioner a few years back did not receive the sanction of Government and that therefore the redistribution of the salaries of the teachers is needed. Under such unfounded statements, the pay of the Petitioner alone was reduced to Rs 35 and the sum of Rs 5 reduced from the Petitioner's pay was unjustly distributed among the peon and Assistant Masters, purely Municipal Servants (Vide copies of the draft Budget of the Municipal Council and the extracts from Budget for 1894-95 enclosed and marked Nos, VI and VII respectively) and this reduction and revision of the School was

approved of by the late Ag: Director, the Honorable Mr: A. Munro, M. A., B.C.L., as the extract from covering letter relating to Education under Grant II which alone gives the details of the revision was not submitted to his honor (Vide his honor's letter to the Chief Secretary to Government, dated Madras 23rd March 1894, No. 2709). In doing this mischief to the Petitioner out of revenge, the G. O. dated 31st May 1892 No. 1285 L. Local and Municipal, which strictly prohibits revision or reduction of a School without consulting the Educational Officers concerned, was not even cared for. In this connection, the Sub-Assistant Inspector of Schools, Mr. C. Kothandarama Naidu Garu, was called upon by the Director of Public Instruction in his honor's Proceedings dated 16th May 1894, No. 4537 to submit an explanation for seconding the proposal made at the Budget Meeting of the Walaja Municipality to reduce the scale of establishment of the Municipal Middle School, against the recommendation of the Inspector of Schools. The Petitioner hears that no explanation was submitted.

11. That, while matters stood thus, seeing that Government and the Educational Authorities did not take notice of the above mentioned illegal acts, the Petitioner's pensionable and approved service of more than 20 years in the Department was dispensed with by a premeditated arrangement at a meeting held on the 22nd June 1894, without calling for a word of explanation from the petitioner. This dismissal order was neither communicated to the Petitioner nor to the Educational Authorities upto date. Hearing rumours at last, the Petitioner in his letter dated 9th October 1894 requested the present Chairman to furnish him with a copy of the said dismissal Order, if the said rumours were true and the Chairman was pleased to grant him a copy on the 16th October 1894.

12. That even supposing the Petitioner is a Municipal servant, the Municipal act IV of 1884 empowers the Chairman alone to inflict punishments, such as, fining, suspension and dismissal, on his servants. If the Chairman's actions are unjust, the party aggrieved has the right of appeal to the Council under G. O. 6th October 1891, No. 1654 M. Local and Municipal. The infliction of punishments is entirely within the sphere of the Chairman and not of the Council which is only the appellate authority. In the petitioner's humble opinion, the Council in dispensing with his services exceeded the powers conferred on it by the law and deprived the petitioner of that right of appeal too. The petitioner further begs to add here that the subject of his dismissal is not at all included in the agenda papers circulated to the Councellors for the said meeting. It is not out of place to point out here that the Sub-Assistant Inspector of Schools, Mr, C. Kothandarama Naidu Garu, took an active part in this meeting of course, with his friend M. R. Ry. M. Sundaresa Iyer Avgl, the petitioner's enemy.

13. That on the receipt of the said dismissal order, the petitioner submitted on the 25th October 1894 a petition to the present Chairman through the Director of Public Instruction, protesting against the said illegal order, and the Director was pleased to forward the same with his honor's endorsement No. 10929 dated 14th November 1894 for favor of remarks and return. The petitioner also served the Chairman with a notice under section 261 of act IV of 1884, for his restoration with arrears of pay on the 16th November 1894.

14. That thereupon the Council was pleased to appoint a select Committee in the meeting held on the 15th December 1894, for consideration and report. The said Committee submitted its report on the 17th July 1895. (Vide enclosure VIII). It was brought for final disposal at the special meetings held on the 17th, 27th, and 28th of January last. On the last meeting of the 28th, the Council passed Proceedings to the effect that the petitioner should be restored to his post, after a month's notice to his substitute, without back pay which sould be witheld as a punishment for the charge of insubordination against him. (Vide copy of the Municipal Resolution enclosed and marked No. IX). The so called charge of insubordination was not at all taken into consideration and discussed by the Council in the said meetings. The petitioner respectfully submits that no charge of insubordination can be made against him and the charge was laid at his door to ruin him, in some way or other through malice and there is not a particle of evidence in the records as will be evident from the petition enclosure submitted to Your Excellency in Council on the 15th January 1894. Your Excellency will be convinced beyond doubt of the truth of the statement of the petitioner by Your Excellency's kind perusal of the select Committee's report. (Vide Enclosure VIII). The petitioner begs to draw Your Excellency's attention to the fact that the Sub-Assistant Inspector of Schools attended the meetings of the 17th and 27th January last, raised several groundless objections against the interest of the petitioner and absented himself from the last meeting, seeing that almost all the Councillors and the Chairman who would not yield to the advice of others have been rightly arguing in his favor. The said Sub-Assistant Inspector further urged that petitioner was placed under the entire control of the Municipality, while his services were not transferred but only lent to the Council. (Vide Director's Proceedings No. 4397 dated 20th May 1889).

15. That in the draft Budget meeting held on the 4th instant, hearing from a Councillor, M. R. Ry. R. M. Thanthoni Pillai Avergal, the injustice done to the petitioner in reducing his pay from Rs 40 to 35 during the period of his suspension, the Chairman was pleased to call upon the petitioner to produce his records in support of his usual pay of Rs 40. On referring to only a very few of the records presented by the petitioner for his inspection, he kindly brought this question to the notice of the Councillors. But the Sub-Assistant Inspector of Schools with his usual interest strongly opposed it and even said that it was entirely at the option of the Councellors to fix the salaries of the teachers. Then the Chairman allowed the petitioner to get the question decided by Your Excellency and the Director of Public Instruction.

16. That petitioner feels himself bound to bring here to Your Excellency's notice that the Sub-Assistant Inspector of Schools, M. R. Ry, C. Kothandarama Naidu Garu even losing his sympathy towards the Department, took utmost interest in making out a case against the petitioner, in getting him suspended on baseless grounds, in reducing his pay and lastly in dispensing with his services, believing that all Government Orders, Educational rules, and Proceedings of the Director of Public Instruction can be ignored by him though the Director's Proceedings

No.7685 dated 28th October 1884 strictly enjoins him "always to bear in mind that he is an administrative officer of Government and not of the Local bodies whose educational operations he supervises, and that whilst aiding the administration of Local bodies in matters of education. he is bound to bring to the notice of his superior any serious deviation by Local bodies from rules and orders of Government regulating the administration of education. &c. &c. &c., "

17. The petitioner therefore prays that for the above reasons your Excellency in Council may be graciously pleased to sanction in the Budget for 1896-97 his usual pay of Rs 40 and to declare petitioner is guiltless of the charge of alleged insubordination, that his suspension on that ground is illegal and that his arrears of pay at Rs 40 a month may be given to him without affecting his pensionary claims.

For which act of justice, as in duty bound, shall ever pray,

WALAJANAGGAR
27TH FEBRUARY 1896.

Your Excellency's most obedient
and humble Servant
W. MURUGESA MUDALIAR.
W. Murugesa Mudaliar

FROM,

W. MURUGESA MUDALIAR,
First Assistant Master,
Municipal High School,
WALAJANAGAR.

TO,

The Director of Public Instruction,
MADRAS.

HONORED SIR,

I beg to acknowledge receipt of your honor's Proceedings No. 8884 dated 19-8-96, returning my petition dated 27-2-96, addressed to His Excellency the Governor in Council praying for redress of my grievances *in re* my suspension and subsequent dismissal from the office of a teacher in the Municipal Shcool, Walajapet, and submitted through your honor.

It is nothing but my misfortune that G. O. No. 472, dated 20-5-86, stood in the way of your honor's kind transmission of my petition to Government; yet the fact that this G. O. has already been cancelled by subsequent orders as here under detailed will arouse your honor's pity and kindness to forward it now without any objection.

G. O. No. 472 dated 20-5-86 is an outcome of G. O. No. 392 dated 29-4-86. Neither the former nor the latter has anything to do with my case as I am only a Government servant appointed by the Government in a Government School in 1876, and the G. Os. refer only to the punishments of purely Municipal servants as will be explained below.

The petitioner's services were transferred to the Municipal Council of Walajapet, when the local Government School was brought under the management of the Municipality (under G. O. No. 1768 dated 17-8-83), thereby the Municipal Council held the position of trustees for the school under section 25 of the District Municipalities Act IV of 1884, and as such, the petitioner's position and progress were not at all affeted in any way. Moreover the said G. O. plainly rules that Government Masters transferred are to retain their own privileges, the transfer involving no hardship to them. vide, Encl. I.

As per G. O. No. 19, dated 8-1-90, which runs that "In the matter of debit of pensions of masters in Government service employed in schools transferred to the management of Local or Municipal bodies it was ruled that the rule of proportions should not apply, not only in cases where the net cost of the schools is borne by Provincial Funds, but also where the entire charge is met from the funds of such bodies," it is plain that although Government schools are transferred to the management of Munici-

pal bodies, the teachers who have been serving in such schools are only Government Masters and as such eligible for pension from Provincial Funds.—vide, Encl. No. II. I am eligible for Pension from Provincial Funds for the reason that I was serving in the Government school as a Government teacher and my services were transferred to the Municipality along with the school.

6 Referring to Director's Proceedings No. 4397, dated 20-5-89 I beg to add that in settling about the verification of services of such Government masters lent to local bodies, it was decided that such portion of service rendered under Government should be verified by the Department and the other portion of the services of such pensionable teachers, under the control of the Boards should be done by latter.—vide Encl. III.

7 And Rule 2 article 8 49 of the Civil Service Regulations clearly shows that teachers employed in Government schools which might be transferred to local bodies should be held to be still rendering service qualifying for pension.—vide, Encl. IV.

8 I also beg to invite your honor's attention to Rules 1 and 4 of the Government notification No. 1874 dated 7-8-91, wherein it is stated that teachers already in Government service in Government schools and eligible for pension although transferred to Municipal bodies & serve under them, are still eligible for pension.—vide, Encl. V. Under Rule 1 of this notification again, I was a member of the pensionable Establishment of a Government school employed in such school at the time of its transfer to a Municipal body and as such I must be held to be still rendering service qualifying for pension from Government and therefore a Government servant too.

9 That again G. O. No. 1082 dated 15-6-88, states that all the members of the pensionable Establishment from the grade of a Peon upwards in Government schools transferred to a local body and who were on the Establishment of the shcool at the time of its transfer shall be held to be rendering service qualifying for pension subsequent to the date of transfer.—vide, Encl. VI.

10 From the foregoing recorded authorities it will be clearly visible that I am a Government servant only and eligible as such for pension from Provincial Funds and not a Municipal servant as your honour appears to think of. The above assertion will also be confirmed by certain practical examples hereunder mentioned.—

11 That along with me, Messrs. V. Nadamuni Mudaliar and T. Kristna Row and other members of the Pensionable Establishment of this Government School were transferred with the school to the Municipality of Walajapet in 1883. In 1885, Mr. Nadamuni Mudaliar was withdrawn according to section 40 (4) of act IV of 1884, by the Director of Public Instruction in his honor's Proceedings No. 6438 dated 30-9-85, to render service under Government again as a Deputy Inspector of Schools, and that offiicer still serves under Government as a Sub Assistant Inspector of Schools, Vellore Range.

12 As for the second offiicer, Mr. Kristna Row, the Municipality did not require his services as it could not pay him properly under certain circumstances and he being a Government servant, it addressed the chief secretary to Government through your honour duly giving the 3 months' notice required under section 40 (3) of act IV of 1884, and requesting to provide him with an appointment of equal pay elsewhere, i e., a replacement of his services under the Educational Department. Your honor disposed of the case of this member of the Pensionable Establishment and a Goverment servant in Proceedings No. 12047 dated 16-10-91 and this Government servant was accordingly withdrawn and appointed as a Government servant in the Sessional school at Chingleput.—vide, Encls. VII to IX.

13 It was because that these 2 officers were Government servants and members of the Pensionable Establishment, that the former was withdrawn under section 40 (4) and the latter under section 40 (3) of act IV of 1884, it was because that they were Government servants &c., that the Municipality addressed the cheif secretary and gave 3 months' notice for providing the latter officer elsewhere in Government service and it was because that these two officer's were Government servants that their services were eventually replaced in the Educational Department. I therefore beg to bring te your honor's kind notice that I am also a Governmenr servant in the same position as that of the 2 above mentioned officers transferred with the school to the Municipal body along with me but luckily retransferred to the Educational Department.

14 As I did not plainly explain to your honor the above said authorities, examples &c., the G. O. No. 472 dated 20-5-86 gave room to your honor to think that I am only a Municipal servant and not a Government servant and that I have no right of appeal to Government. I beg to reiterate that G, O. No. 472 dated 20-5-86, was issued with reference to G. O No. 392 dated 29-4-86 and this has been cancelled by G. O. No. 918 dated 25-4-89.—vide Encl. X.

15 This last G. O. authorises the chairman of a Municipal Council to punish any servant of such council subject to the provision of section 40 (3) of act IV of 1884 which rules "that no Government servant &c, &c. &c. &c." It means the chairman of a Municipal council has the power of punishing Municipal servants and not Government servants lent to the Municipality and these can only be dealt with with the consent of the chief controlling authority of the branch of Government service to which such servants belongs. I am a Government servant and therefore have the right of appealing to His Excellency the Governor-in-Council against the injustice done to me by the Municipal Body.

16 To return to your honor's Proceeding's No 8884 dated 19-8-96, returning my petition, your honor's order that under G. O. No. 1654 dated 6-10-91 the chairman of a Municipal council is vested with power to fine, suspend. or dismiss any servant of such council, subject to an appeal to the Municipal council does not refer to me but refers only to purely Municipal servants. The amended rule 2 of the Notification referred to therein runs that "Subject to the Provisions of the section 40 (3) of the Act, the chairman of a Municipal council shall have power to fine, suspend or dismiss any servant of such council" I am a Government servant and therefore come under this Provision and the chairman and the council before dealing with me should act according to the said section 40 (3) of the Act. Later on the G. O. also states that "Further in the case of subordinates of the Medical Department or Deputy Inspectors of Vaccination whose servises have been lent to the council, there shall be a right of appeal to Government" against any kind of punishment inflicted by the chairman of a Municipal Body ; as I was lent to the Muncipal Body along with a Government school, I come under the category of the Medical Subordinates or Deputy Inspectors of Vaccination and I have every right of appeal to Government against the illegal punishment of the chairman and the Council. In your honor's Proceedings uuder

reference, it is also stated "that I have no ground on which to appeal to Government as my appointment does not require the sanction of Government. It is only in cases of purely Municipal servants who draw Rs. 50 and more that the sanction of Government should be obtained by the chairman in Council and it is only then that those officers have a right of appeal to Government. I am neither a Municipal servant nor have I been appointed with the sanction of Government, but I am purely a Government servant lent to a Municipal body and there was no necessity for Government sanction being obtained before I was appointed.—vide, Encl. XI.

17 Under the foregoing circumstances, I most humbly beg to request your honor will be graceously pleased to peruse all the enclosures herewith submitted, to consider deeply the grounds herein put forth, and to forward my petition herewith resubmitted to Government with your honor's strong recommendation to enable the Government to order the refund of arrears of pay due to me from 16-10-93 to 17-2-96 both days inclusive at Rs. 40 a month and also to sanction the original rate of my pay Rs. 40 which was since unjustly reduced to Rs. 35, for wich act of kindness and charity, I shall as in duty bound ever pray and beg to remain,

Honored sir,
Your Most Obedient Servant,
W. Murugesa Mudaliar

14th September 1896,
WALAJAPET.

/True Copy/

Sreehari Press:—Madras.

2
2024 Mar 1897

B

FROM,

W. MURUGESA MUDALIAR,
2nd Assistant Master,
Municipal High School,
WALLAJAPET.

TO,

THE DIRECTOR OF PUBLIC INSTRUCTION,
MADRAS.

HONORED SIR,

With reference to your honor's Proceedings No. 2027 dated 25th February 1897, I beg to state that I take this opportunity of presenting my petition to Government once again through your honor, as I believe that upon considering the facts detailed hereunder your honor will be pleased to come to the conclusion that I am entitled to forward the same to Government through your honor alone.

2 I therefore most respectfully beg to resubmit my petition with the full hope that in view of further explanation herein offered with reference to the authorities hereunder referred to, your honor will be pleased to reconsider the two observations made in your honor's Proceedings and submit the petition to Government with your honor's favorable recommendation.

3. I further beg to submit that my case is a very hard one. I have been subjected to a serious loss of pay during a long period of my suspension and discharge and of my whole claims for pension, by the break in my service caused by the illegal orders of the Chairman and the Council of this Municipality against which I beg to appeal to the benign Government. This is, therefore, a case on which your honor has to bestow your honor's special and mature consideration. I expect to have full justice from Government without the least doubt, if your honor is pleased to represent this unfortunate case in its true aspect.

4. I am an *Officer of Government*. I entered the Department in 1872. I have been allowed to take service under this Municipality, that is to say, my qualifying services have been transferred to the *Foreign Service of the first kind* on the Orders of Government on puplic grounds in 1883. I am permitted at the same time to retain my privileges as a *Servant of Government* and to maintain my claim to pension and leave, in the same way as I am still in the *Service of Government*. (Vide Articles 802 and 805 of the Civil Service Regulations, 2nd Edition of 1892).

5 By my transfer from qualifying service to Foreign service I have a lien upon or a right to return to a substantive appointment under the British Government. (Vide Article 842). I have been for recorded special and public reasons exempted from payment of contribution and am allowed to draw my whole pension from Government Exchequer (Vide Rule 2nd and note under Article 849).

6. With regard to my punishment &c., while on Foreign service, the Home Department Resolution No. $\frac{11}{830\text{-}39}$, dated the 6th May 1889, rules that I should remain subject to the general and disciplinary rules applicable to Officers on active Government service (Vide Rule 5 under Aticle 806). I may also note here that the Government of India have in Resolution, dated 11th April 1883, Nos. 3, 133, 44, ruled that *Government masters* transferred are to retain their pensionary privileges and that the transfer will involve no hardship to Government masters concerned, and also clearly recognised the principle that *Departmental control* is necessary in their Order recorded in Madras G. O., Public Department, No. 1668, of 17th July 1885. I further beg to add thad the Government of Madras in the Financial Department in their Order No. 260 M, dated 19th July 1885, also approved of the proposal, of H. B. Grigg Esq., M. A, the late Director of Public Instruction in his honor's letter, dated 2nd May 1885, No. 3180, which reads "It would suffice if Municipal and Local bodies are informed that the transfers, promotions, and in fact the entire treatment of teachers with pensionary claims, who have been transferred to them with Government Schools, should be in strict accordance with the various provisions of the (financial) code, but that in regard to other teachers, Municipal and local bodies are free to use their discretion".

7. The foregoing authorities, I beg leave to say, will surely convince your honor beyond doubt that I am a *Government Servant on Forign Service*, that I am entitled to represent my grievances to His Excellency the Governor-in-Council through your honor alone, that the Municipality has no power to deal with me as it likes without the intervention of my Educational superiors and that the Municipality is held responsible for its illegal actions of, first, suspending me, secondly, reducing on fallacious grounds my legitimate pay of Rs. 40 to 35 while on suspension, and lastly, dispensing with my services without the official notice of 3 months (Vide Article 472 and rules and note under it)—all these, I am sorry to say, *without the least knowledge of the Government or the Educational Department* and *without a word of explanation from me as it is incumbent on it to do so under G. O, dated 10th August* 1888, *No.* 1480 *L, Local and Municipal.*

8. I now beg leave to permit me to clear off the two difficulties your honor seems to have met with in submitting my appeal petition (herewith returned) to Government. In the beginning of your honor's Proceedings under reference, it has been stated "It is true that these teachers in Government Schools who are transferred to local bodies, along with Schools, *retain their pensionary privileges;* but this does not entitle them to be treated as Government Servants" The Civil Service Regulations say in plain terms *that only the servants employed under the British Government or under the Foreign Government on the orders of the Government of India on grounds of public Convenience* are entitled to secure pension from the Government and that it is not necessary for the state to concern itself with arrangements for pension to other servants. Besides this, the Government of India are very careful in guarding against the waste of public Revenues. While so, I dont know why the Government undertake to pay pension to these transferred servants, if they are not servants of Government from Indian Resources and that too, without any contribution from them.

9. In respect of the observation regarding the G. O. No. 472 M., Financial dated 20th May 1886, I beg to submit that it has no foundation for the following reasons and under the authorities quoted above, *as it is directly opposed to the Orders of the Govrenment of India.*

(1) About a year after the transfer of these Government Masters to Foreign service on the Orders of the Government of India, the Government of Madras owing to some mistake or other issued *G. O. No. 1400, dated 23rd June* 1884, declaring thereby that these Government Masters should draw their pension by "*Rule of Proportions,*" that is the charge should be debited to both Government and Municipality in the proportions in which the aggregate pay drawn by the officers during the whole of their qualifying service has been paid from them. This is tantamount to saying that the Government Masters ceased to be Government servants form the date of transfer in as much as both their service and pension were arranged to be paid from Foreign funds.

(2) Agreeably to the said G O. No. 1400 which had a wrong basis, G.O.No. 392 M, Financial, dated 29th April 1886 was passed for the punishment of Municipal servants. On the question raised by M. R. Ry, Teperumal Chetty Garu, Chairman, Municipal Council, Anantapur, the G. O, No. 472 M, Financial, dated 20th May 1886 was passed and was recorded with the previous G. O. No. 392, M. Financial, declaring that "Teachers in Government schools transferred to local bodies cease from the date of such transfer to be Government servants" I beg permission to note here that the G. Os. Nos 1400, 392 and 472 pointed above were all passed by the Government of Madras in the Financial Department and that latter two G. Os. Nos. 392 and 472 had their Origin from the first G. O. No 1400 which contains "Rule of Proportions."

(3) Soon after the publication in 1889 of the first authorised Edition of the Civil Service Regulations which govern the cases of both Government servants and Goveanment servants on Foreign Service, the Government of Madras found out the mistake and cancelled the first G. O. No. 1400 in their Order dated 7th December 1889, No. 1472, Pension, which plainly rules that the "Rule of proportions" should not apply in the case of *Masters in Government service* employed in shcools transferred to the management of Local and Municipal bodies, the cases of these teachers being governed by special rules from the Government of India.

(4) The rules published by notification under the Second G. O, No. 392 M, were also superseded by G.O, dated 25th April 1889, No. 918 L, Local and Municipal. From this it is evident that the third G. O., No. 472 M, which had its basis on the above first two G. Os, will remain in force only so long as the said G. Os., Nos. 1400 and 392 are in force. As these G. Os, are shown to have been cancelled, it must necessarily follow that the G. O., No. 472 which has its origin from a wrong source was also cancelled and that no mention of it is necessary to be made in any of the G. Os, it being the G. O, only recorded with reference to the second G. O. No. 392 now cancelled. If your honor is still of opinion that this G O, No. 472 is still in force, I respectfully beg to submit that it is *ultra vires* and that the Government may be addressed on the matter in the interest of these poor and innocent teachers like myself who have spent the most part of their life time in the Department.

10. Coming to the 2nd observation that Section 40 (3) of the Act does not apply to me but applies only to Government teachers lent on application, I beg leave to state that Sections 40 to 42 apparently do not cover the cases of Government servants whose pensions are drawn from the Indian Resources without any contribution from the Municipality (as is the case with me). But the Article 478 and the rules and note below it require an official notice of 3 months to be given to those officers before their serivces are dispensed with, just like the Section 40 (3) require

such notice to the Government servants lent on application As three month's notice is essential in dispensing with the services of these two classes of Government servants lent and transferred, the provisons of Section 40 (3) are equally applied in the cases of transferred Government servants like myself On cancelling the G. O, No. 392, the G. O, No. 918 L, was passed with the addition of "Subject to section 40 (3)" which is no doubt intended to be applied to the cases of transferred Government servants only, as provision has already been made in the Act itself in the cases of lent Government Servants. In confirmation of this statement, I beg to relate a case among several of the kind, of recent occurrence. This very Municipality, when it did not require, under certain circumstances detail-d in para 12 of my last letter, a printed copy of which is herein enclosed the services of one Mr. Kristna Roa, a Co-teacher, transferred along with me, gave a notice of 3 months under this very *section* 40 (3) of the Act to the *Chief Secretary to Government* through your honour alone. This is in my humble opinion ample proof of my contentions to convince your honour on the subject. When Section 40 (3) is applied to a transferred co-teacher, it is submitted that it applies to me as well. Even though it may be considered that Section 40 (3) does not apply to me, I beg also to submit that the Civil Service Regulations which govern my case make it incumbent that a previous official notice of 3 months should be given before my services are dispensed with.

11. For the reasons detailed above, I most humbly beg your honour to be good enough to submit the enclosed petition to Government with your honor's strong recommendations so as to enable the Government to order the refund of arrears of pay due to me from 16-10-93 to 17-2-96 (both inclusive,) and to sanction the original rate of my pay Rs. 40 from the date of my reinstatement, that is from 18-2-96, and also to declare that the period passed in suspension and discharge shall count towards my pension.

For this act of kindness and charity, I shall as in duty bound ever pray for your honor's long life and prosperity,

I beg to remain,
Honored sir,
Your honor's most obedient servant,

28th May 1897,
WALAJAPET.

W. Veerayya Vice dalar

P-S- Duplicate copies have been submitted to Government alongwith this to avoid further delay.

W. Ve

(True copy)

Sreehari Press:—Madras.

3/2024 Mopl 1897

L & M.

Educational (1898) Department.

CURRENT No. 268/98

From The Dir of Pub. Instruction, Madras

Order

SECRETARY TO GOVERNMENT
18 JAN 1898
MUNICIPAL DEPARTMENT

No. 309

Dated 15-1-98.

Received 18-1-98

Registered

Enclosures

Spare copies

SUBJECT.

Subg to Government a petition from V. Veerayya Vice dalar, 2nd Assistant Master, Govt High School, Wallajapet.—

DESPATCHED
17

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

30th November 1897

Walajapet.

From

W. Venugopa Reddiar

2nd Asst Master (late 1st Asst middle school)

Municipal High School,

Walajapet.

To

The Secretary to Government,

Local and Municipal Department,

Fort Saint George

(thro' the Director of Public Instruction)

Honored Sir,

I beg to remind Your Honor that the duplicate copy of my appeal to Govt dated 27th February 1896 was forwarded to the Municipal Council of Walaja for remarks (Vide Endorsement of Govt L & M dated 6th July 1897 No 724).

The Chairman's remarks thereon were adopted for submission to Govt, at the Council's meeting held on the 19th instant.

The Second Sub-committee's report (Copy already submitted with the appeal), on which the Council reviewed the whole of my case and restored me to my appointment, dwells fully on the alleged charge of insubordination and insolence. (Vide Extract of the report, bearing only on the subject in issue is hereunto Submitted).

The Sub-committee reported me to the Chairman direct in its letters dated 14th October 1893 and 14th December 1893 for insolence and insubordination which consisted in my having questioned the Sub-committee as to the legality of the formation of it at the Chairman's own instance, and as to the legality of the Several statements the Sub-committee or other interested persons took against me behind my back without giving me

an opportunity to cross examine the witnesses and as to who the complainant was,— besides having put several other questions of a technical nature.

I therefore humbly request Your Honor will be kind enough to take into consideration the enclosed Extract of the Second Sub-committee's report dated 14th July 1894, which throws a clear light on the alleged charge and exonerates me from the same. Hoping to be excused

I beg to remain,

Honored Sir,

Your Honor's humble Servant

W. Kumaregasa Mudaliar

2nd Asst Master

Government High School

Kalagapel

Extract from the 2nd Committee's report dated 14-7-94

Para. 3. (L). There is one more statement that remains to be lifted, that is, the statement of Kumaregasa Mudaliar, the unfortunate delinquent in this case. He was sent for on the 12th of October 93 to the Municipal Office where the Committee had assembled. The statement of Swaminathan was read over to him and he was required to explain it. At this time, it must be noted that Kumaregasa Mudaliar had no knowledge whatever of the Sub-Magistrate's complaint against him and the late Chairman was not kind enough to inform Kumaregasa Mudaliar of the charge against him and that a Committee had been appointed by him to investigate into that charge. In the absence of this information and in the presence of Kumaregasa Mudaliar must have surely struggled in giving answers, but he did strive to say something. The substance of his statement is that he denied having written the pseudonymous petition. He makes questions as if he had displayed temper in the case in his talk to Mr. Kadiravelu Mudaliar. Kumaregasa Mudaliar of course denied it and there is no knowing of what Mr. Kadiravelu Mudaliar stated as he was not examined at all. The inquiry of the 12th October apparently closed all quietly. Kumaregasa Mudaliar was again sent for on the 13th October and was questioned as to who his enemies were to whom he had referred in his previous day's statement. He replied that until he was furnished with the records against him, he was not quite prepared to make his defence. This is the integral portion of his statement of the 13th October and the proceedings of the day closed with Kumaregasa Mudaliar's

Mundalia's promise to submit an written explanation by the 16th idem. But, in the meantime, on the 14th of October, a warning letter was sent by the committee to the Chairman, drawing Mr. Murugesa Mundalia's attention and insolence and demanding his suspension for preserving its prestige. His requisition for copies of records was construed into serious insubordination and the explanation of an Assistant of his was represented as unpardonable insolence. There is nothing in his written statements to show that he was disrespectful or impertinent. Except the high language in the committee's letter, the records do not show any spirit of disrespect or impudence on the part of Murugesa Mundalia. On the strength of this hollow representation, the late Chairman without calling a word of explanation from Murugesa Mundalia, thought fit to suspend him on the 18th idem, a Sunday. Perhaps the late Chairman thought that the very demonstration of the Municipality would be endangered if he should wait till Monday, the next working day. So he could not passed fully pass the Sunday without passing the Order of Suspension that very day. In the leave sent to Murugesa Mundalia, he was informed that he was placed under Suspension pending the result of the enquiry by the Committee and not for any insubordination or insolence; but it was represented to his Departmental Superiors. In my humble opinion, there was no necessity at all for this suspension and it could not but be said that it was a prejudicial step against Murugesa Mundalia. × × × ×

× × × × × ×

(9) Para 4 of the committee's report deals with the insolent and insubordinate behaviour laid to have been presented to the committee by Murugesa Mundalia. I should not have thought it worthwhile to say anything here on the subject having already spoken of it in para (8) supra, if the committee had not referred to the explanation of Murugesa Mundalia dated 16-10-93, as giving conformation to the committee's report dated 14-10-93. The point for decision here is, if Murugesa Mundalia's explanation dated 16-10-93 contains any impudent observations or is written in any spirit of insolence. It can be seen from his explanation that he has been sufficiently deferential to legitimate authority and has nowhere shown any spirit of disrespectfulness. But he has in a submissive tone raised a number of technical questions which a calm and dispassionate body would not have treated as impudent conduct. Here, Murugesa Mundalia was an accused and added to it he was kept in darkness as to the origin of the committee and as to the origin of the charge against him and as such he was perfectly welcome to question matters. Under similar circumstances, it would have been the duty of a just tribunal to have explained every point raised by him and to have afforded all reasonable facilities for his defence instead of handing him up for imaginary insubordination and damning him for it.

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Thus it can be seen that the charge of insubordination holds no water in it, but completely breaks down.

/Sd/ C. Ramachandra Rao
Municipal Councillor

(2) /True Extract/

W. Cunningham Woodalies
2nd Asst Master
Municipal High School
Walajapet

Ed. Cer. 5,000—27-10-97.

R. No. 15373/97.

DEPARTMENT OF PUBLIC INSTRUCTION.

No. 309
15-1-98.

Submitted to Government.
discontinuation of this office
letter No. 308 of 15-1-98.

D Duncan
Dir of Pub. Instruction

Cor 293 1/98

From W. Murugesa Mudly,
2nd Master, Municipal High School,
Wallajapet.

No.

Dated

Received

Enclosures

SUBJECT.

Furnishing few extracts from the Municipal sub-committee's Reports in connection with the charge brought against him.

Educational (1898) Department.

CURRENT No. 293

SECRETARY TO GOVERNMENT
19 JAN. 1898
LOCAL & MUNICIPAL DEPARTMENT

From
The Dir of Pub. Instruction,
Madras.

Order

No. 308

Dated 15th January 1898.

Received 19-1-1898

Registered 19-1-1898

Enclosures three 12 & C.No 2124 of 1897 secd

Spare copies

SUBJECT.

Submitting with remarks a letter from the Chairman, Municipal Council, Wallajapet together with an appeal from the Assistant Master Municipal High School against an order of suspension and dismissal passed against him by the Municipal Council.

DESPATCHED
19/1/98

26/1 a 1893

BACK PAPERS.

G.O.	No.	Department.	Date.
Cur	268	L/97	
Fo	2070	L/97	20-9-97
"	472	L	19-3-96
"	479	L	10-4-94
"	1664	L	6-10-94
"	918	L	25-4-89

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Encls 01 bundles
Letter No. 922 15-12-97

Rec'd 15163/97

Local & Munl. (1897) Department.

CURRENT No.

From The Chairman ex officio Municipal Council Palagapah

Order

No. 659

Dated 25th November 1897

Received

Registered

Enclosures (Nine)

Spare copies

SUBJECT.

Submitting, with remarks & connected papers, W. Munigesa Mudaliyar's appeal & Govt. referred for remarks in Encl. of Govt.; Local & Municipal, dated 5th July 1897, No. 724.

(Vide Council's Resolution No. 15)

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No	Department.	Date.

List of papers accompanying Chairman's letter No: 659 dated 25th Novr 1897.

1.) Copy of Council's Resolution No: 6 15-11-97.

2) Remarks on the appeal approved in the resolution.

3) Addendum to the above Remarks.

4) Copy of Statement of W. Murugesa Mudaliyar before the Sub: Committee on the 12th + 13th Octr 1893.

5). Copy of Sub: Committee's report dated 14th Octr 1893 recommending Murugesa Mudaliyar's suspension for insolence and insubordination to the Sub-Committee.

6) Murugesa Mudaliyar's explanation dated 16th Octr 1893, in which he questions the legality of the formation of the Sub-Committee at the Chairman's own instance and raises certain technical objections.
(True translation of the paper.)

7) Extract from Sub: Committee's final report dated 14th December 1893, acquitting Murugesa Mudaliyar of the charge of insolence and insubordination to the Sub: Committee.

8) Translation of Mr Seshe Chariar's deposition before the Head Asst Magistrate of Nattarasankottai in Calendar Case No: 13 of 1894.

9) Papers received with Endt of Govt, No: 724 L.d. M. dated 5th July 1897.

25.11.97

Extract from Minutes of Proceedings of the Municipal Council, Walajapet — passed at a meeting held on Friday the 19th November 1897.

Present.

J. W. Hughes, Esquire, I. C. S.,
Head Asst. Collector, North Arcot
+ Ex. Officio Chairman.

M. R. Ry. T. Dwaisami Pillai Avargal,
Inspector of Police

" M. Rangaswami Aiyangar Avargal,
Sub. Asst Inspector of Schools,

" V. Vijaya Raghava Mudaliyar Avargal,

" R. N. Thathoni Pillai "

" P. Alwar Chetti Garu

" P. Varadayya Nayudu "

" V. Ramaswami Chetti "

" C. Sriniwasa Mudaliyar Avargal

" M. Viswanatha Aiyar "

Meeting opens at 7-55 A. M.

× × ×

6. Read Ex: Officio Chairman's draft remarks on appeal to Government by V. Murugesa Mudaliyar, Asst Master, Municipal High

High (formaly Middle) School, Walajapet referred to the Comail for remarks in Endorsement of Government, Local and Municipal, N: 724, dated 5th July 1897.

(Mr. Vijayâ Raghava Mudaliyar proposes an adjournment in order to produce certain records which he says are relevant.

Mr. Thanthoni Pillai seconds the motion.

6 votes for the adjournment and 4 votes against adjournment.

The discussion is therefore adjourned for the production of a certain record — the deposition of Mr. Seshachariar before the Head Assistant Magistrate. No other record is required. The record will be produced this evening by the Chairman.

The sitting will be resumed at 5-30 this evening.)

(The sitting accordingly resumes at 5-30 P. M.)

Read also the following papers:-

(1) Murugesa Mudaliyar's explanation dated 16th Octr. 1893

(2) Sub-Committee's Repot dated 14th Decr. 1893.

(3) Statement of V. Murugesa Mudaliyar before the Sub-Committee on the 12th & 13th October 1893.

(4) Sub-Committee's letter to the Chairman dated 14th October 1893 recommending Murugesa Mudaliyar's suspension for insolence and insubordination to the Sub-Committee.

(5) Mr. Seshachariar's deposition before the Head Asst. Magistrate in Calendar Case N: 13 of 1894

These draft remarks are approved and they, with the addendum, will be submitted to Government.

The meeting dissolved at 7 P. M.

/ True Extract. /

Walajapet
19th Novr. 1897

J. Stephen
25/11/97
Chairman, Ex: Officio
Municipal Council

3
29 Nov 1898

Remarks drafted by the Chairman, Ex: Officio, Municipal Council, Walajapet on the appeal from V. Murugesa Mudaliyar, Assistant Master, Municipal High (formerly Middle) School, Walajapet referred for remarks in Endorsement of Government, Local and Municipal, dated 5th July 1897, No. 724.

1. The facts of this case may be briefly and clearly stated as follows:-

2. In the year 1893, a pseudonymous petition was written impugning the conduct of the Stationary Sub-Magistrate of Walaja in a certain case. The Sub-Magistrate was of opinion that that petition had been written by one Sivalingam, a pupil in the Walaja School at the instigation of Murugesa Mudaliyar, the Assistant Master. The Sub-Magistrate applied for sanction to prosecute Murugesa Mudaliyar for defamation but this was not allowed. The District Magistrate referred the paper

6

to the Chairman of the Municipal Coun-
-cil for disposal" with a request
that he will consider the advisabi-
-lity of removing Murugesa Muda-
-liyar from his post." The Chairman
appointed a Sub-Committee. In the
course of the enquiry, Murugesa Mu-
-daliyar appears to have offended the
Committee by the insolence of his demea-
-nour and he was for this reason
suspended by the Chairman on the 15th
October 1893. The Committee finally sent
in their report and on the 25th December
1893, Murugesa Mudaliyar was told
to clear his character in the courts. He
brought a case of defamation against
Sivaligam charging him with defaming
him by saying that he (Murugesa Mu-
-daliyar) had instigated him to write
the petition. The accused, Sivaligam
was acquitted. Finally therefore, on
June 22d, 1894, the services of Muru-
-gesa Mudaliyar were dispensed with by
the Council at a meeting.

3. The Assistant Master, after some

delay

delay due to the fact that the order of
dismissal was not communicated to him
for some time, sent in a protest to the
Council. On the 15th December 1894, another
Sub-Committee was formed. On the 28th
of January 1896, the Council, considering
that Murugesa Mudaliyar was not guilty
of getting the pseudonymous petition writ-
-ten, re-instated him but without
back pay" which they considered
an adequate punishment for the
breach of discipline he had been guilty
of."

4. The 27th February 1896 is the
date of his first appeal sent through
the Director of Public Instruction. It may
therefore be taken to be in time.

5. The question whether Murugesa
Mudaliyar did or did not get the petition
written does not concern us in the least
now, since, as above mentioned, he has
been re-instated. We may pass by the
question altogether. From the 15th October
1893 up to the date of his re-instatement

the

he was under suspension; because, during the course of the enquiry by the Sub-Committee, he had in their opinion been insolent and insubordinate. What Murugesa Mudaliyar really wants now and asks for in the petition under reference is that this suspension should be declared illegal and he should be given back pay. The only records which throw any light on the alleged insolence and insubordination are the explanation of Murugesa Mudaliyar and the report of the Sub-Committee and 2 other papers. These two documents may be submitted to Government with an expression of the Council's opinion as an addendum* to this draft

× hereto attached.

6. Apart from the merits of this question, Murugesa Mudaliyar appears to urge that the order of suspension was illegal, because it was passed by the Council and not by the Chairman and moreover was passed without consulting the Educational authorities which should have been done as he was a Government servant lent to the Municipality and not a Municipal Servant.

There appears to be considerable force in this contention since, although the order of suspension was originally passed by the Chairman, the suspension may be taken to have come to an end when he was dismissed. The order which practically suspended him from June 22nd 1894 to 28th January 1896 was passed by the Council on the latter date and not by the Chairman, nor were the Educational authorities consulted.

7. If therefore Government is of opinion that the suspension was not merited and illegal, Murugesa Mudaliyar's back pay may be allowed for the whole period. If on the other hand Government is of opinion that the suspension was merited but technically wrong, we may leave it to Government to say what shall be done under those circumstances.

8. The next thing (vide para 4 of the petition dated 25th May 1897) that Murugesa Mudaliyar complains about is the fact that ever since he was restored to his post he has drawn a reduced pay i.e., he has

drawn

drawn Rs 35 instead of Rs 40. This is due to the fact that in the preparation of the budget for 1894-95 the pay was so reduced. It should be noticed in this connection that the educational officers do not appear to have been consulted in the matter of this reduction.

9. The petitioner appealed to the Council in February 1896 against this reduction but the Council rejected it on the plea of want of funds.

Municipal Office,
Walajapet,
25th Nov. 1897.

P. Hughes.
ex officio Chairman.
Walaja Municipality
24/11/97

4/2 B of 1898

Addendum to the remarks drafted by the Chairman on Murugesa Mudaliyar's appeal to Government

(a) Question:- Was Murugesa Mudaliyar guilty of the insolence and insubordination to the Sub-Committee?

The result of the vote is that the Council considers that Murugesa Mudaliyar was guilty of the insolence and insubordination to the Committee, - (6 saying yes, & 4, no.)

(b) Question:- Under these circumstances, was the punishment excessive?

The opinion of the Council is unanimous to the effect that the punishment was excessive.

Walajapet,
19th Nov. 1897.

P. Hughes
25/11/97
Chairman, Ex: Officio,
Municipal Council.

5
24/8/1893

Statement made by V. Murugesa Mudaliyar, First Assistant Master, Municipal Middle School, Walajapet.

Questia:- You have heard statement made by A. Sivalingam, a pupil of the Middle School on the 30th August 1893 before the Village Munsiff of Walaj-pet and the one now made by him before us. Did you induce the boy in the manner stated by him?

Answer:- No, Sir.

Questia:- Do you wish to have a look at the petitia?

Answer:- Why should I have a look at the petition?

Questia:- Did you go to Pleader Mr. Kadivelu Mudaliyar who was engaged for the prosecution in the case of hurt brought by a female against Chinniah Chetti and others Walajapet before the Stationary Sub Magistrate of Walaja and showmuch zeal towards furthering the cause

of

of the complainant during the pendency of the appeal?

Ans:- I admit having been to Mr Kadivelu Mudaliyar, but I deny having shown any zeal or forwardness to furthering the complainant's cause.

Q. On the evening of the 14th July 1893, did you go to Kadi Bat-cha Saheb, an attender in the Head Assistant Magistrate's Office and make enquiries of him about any action the Head Assistant Magistrate had taken with reference to the pseudonymous petition now in question?

Ans:- I did not ask him. He himself was telling me about it. I don't remember the date.

Q. Are you able to assign any reason for the boy Sivalingam accusing you of having induced him to write the pseudonymous petition?

Ans:- I used to be severe with the boy as he is poor and lazy and I think my enemies might have induced him to accuse me.

Q. If an opportunity be given you, will you be able to clear yourself from the above imputation?

Ans:- I think, I may.

Q. Have you anything more to say?

Ans:- I have nothing else to say.

/signed/ V. Murugesa Mudaliyar,
1st Asst Master,
Municipal Middle School
Walajapet.

Taken before us the 12th Octr 1893

/sd/ M. Sundaresam
" C. Venkatakrishna Mudaliar
" V. Sesha Chariar
" C. Kodandarama Nayudu
" V. Vijiaraghava Mudaliar.

V. Murugesa Mudaliar recalled and further examined.

Q. You said yesterday that your enemies might have induced the boy to accuse you. Who are those enemies?

Ans:-

Ans:- Till I am furnished with all the papers, I am not prepared to answer. Yesterday, I was all on a sudden sent for and examined and you (the Comeillars) only took down the points you wanted and refused to record something more which I requested you to add to the answers of some of the questions. If you kindly furnish me with all the papers which gave room for this suspicion, I think I will be able to answer all the questions satisfactorily.

Q. Were you not asked yesterday after the questions were answered by you, "Have you any thing more to say?" and did you not in answer say "I have nothing more to say."?

Ans:- It is true I said. I did not know what to answer without knowing the history of the case, but I did not think that I might give all the additions which you refused to note down.

Q. The history of the case is contained in the two statements made by the School boy Sivaligam and they were read out to you yesterday. If you wish, copies of these will be granted to you.

Ans:- Please give copies of the statements of all the boys examined and of the pseudonymous petition and also of my statements. I will submit my explanation on Monday next the 16th Instant.

[sd/] W. Murugesa Mudaliar,
1st Asst Master,
Municipal Middle School
Walajapet

Taken before us this 13th day of October 1893.

[sd/] M. Sundaresam
C. Adikesava Katakrishna Mudali
" V. Seshachariar
" C. Kodandarama Nayudu
" W. Vijayaragava Mudaliar

(True copy)

[sd/] J. Stuart.
Assistant Chairman
Walajapet Municipality
24/11/97

3.

Walajapet,
14th Octr 1893.

To

The Chairman,
Municipal Council,
Walajapet.

Sir,

With reference to your endor-
-sement on the Proceedings (dated 3d
Sept last with enclosures) of the Di-
-trict Magistrate of North Arcot, re-
-garding a pseudonymous petition
suspected to have been got up by
1st Asst Master, Murugesa Mudaliyar
and Asst Master, Sebachala Chetti
of the Middle School in the town, —
through a school-boy of the name
of Sivaligam, we have the honor
to inform you that we, as Committee
commenced an enquiry into the conduct
of the masters concerned.

2. On the 12th instant, we examined
the school boy Sivaligam and two
others of the name of Doraisami and
Damodaran and the two masters in
question.

3. On

3. On the next day (13th.), Mr. Murugesa Mudr. was called in to throw light on certain vague answers of his which needed elucidation. But, to our great surprise, he, without any just cause for so doing, acted in a most insubordinate manner by losing his temper, assuming an air of insolence and taking us to task for omissions (really imaginary and unfounded as afterwards plainly admitted by him) in the record of certain of his answers in the examination of the previous day; besides going the length of sternly refusing to explain certain matters, till he is furnished with copies of all the papers connected with the case, when in fact, as is known to him full well, they have not the least bearing on the explanation needed of him.

Thus it will be seen that the progress of the inquiry was unnecessarily hampered, and as some of the witnesses yet to be examined are absent, we cannot do anything in the matter for another week or ten days, more especially as one of us (Mr. Kodandarama Nayudu Garu) is to be away on duty.

5. For facilitating the enquiry and for preserving the prestige of the Committee, it is necessary that Murugesa Mudr. should be awakened to a sense of duty which he is sadly wanting in. We therefore beg you will be good enough, under Section 42, Sub-Section 2 of the Act, to suspend him and his co-adjutor Seshachala Chetti from office, pending the result of the enquiry set afoot.

We have the honor to be,
Sir,
your most obedient Servants,

/sd/ M. Sundaresam,
" C. Venkatakrishna Mudaliyar,
" C. Kodandarama Nayudu,
" V. Vijiaraghava Mudr.
" V. Seshachala Chetti,
Municipal Commissrs.

True Copy

J. Hughes
ag. Vice Chairman
Walajah Municipality
24.11.97

Ex: Officio.

Walajapet,
16th. Octr. 1893.

To

The Municipal Councillors
Walajapet.

The most humble explanation of W. Murugesa Mudaliyar, Asst. Master, Municipal Middle School, Walajapet.

You enquired me on the 12th. & 13th. Instant as to whether I had done as alleged by Sivaligam in his statement given before the Village Munsiff on the 30th. August 1893 and before you; and then directed me to submit my explanation thereon before the 16th. Instant.

1. I am at a loss to know under what rule of procedure you examined me and took deposition from me.

2. The procedure you adopted in regard to your examination of me is contrary to the provisions of the Madras District Municipalities Act IV of 1884, & the Educational Rulings, practice and justice, as detailed below:-

(a) In case of your having to send for me on any matter, it is desirable

for

for you to do so, (giving intimation) through my Departmental Superiors then I am bound to answer you as any question you may be pleased to ask me.

(b) ~~During the enquiry held against me~~, When I was examined, the Municipal Councillors, M. R. Ry M. Sundaresa Ayia Avargal, M. Ry Venkatakrishna Mudaliya Avargal, M. R. Ry Kodandarama Nayudu Garu, & M. R. Ry. V. Seshachariar Avargal having been present, I am led to doubt as to whether they formed the Municipal Council or a Sub-Committee authorized by the Council.

(c) For, some records show that the gathering ~~as~~ constituted as above mentioned is the Council — in which case, six Councillors should have assembled, whereas only five had assembled. This is not the minimum number to form a Municipal Council's meeting and is therefore contrary to the provisions of Section 30, Sub-Section 4 of Act IV of 1884 (the Municipalities Act.)

(d) If it were the Sub-Committee constituted under Section 38, Sub-Section (V) of the Municipalities Act IV of 1884, such a sub-committee should have been authorized by the Council. As it is obvious that the Committee was not so formed, it is diametrically opposed to the provisions of Section 38 of the Madras Municipalities Act IV of 1884.

(e) If the Municipal Council had so authorized the formation of the Committee to examine me & conduct enquiries, the Council's Resolution on the subject would have been communicated to me. As I have not received any such Resolution, I am confident that the Committee was not formed by the Council.

(f) I

(f) I am led to believe that the Committee might have been formed at the Chairman's own instance.

(g) Section 32, Clause 3 of the Madras Dt. Municipalities Act IV of 1884 rules that it shall not be lawful for the Chairman to do what it is competent for the Council to do at a meeting.

(h) You have refrained from informing me as to who the complainant is in reference to the enquiry you made of me, although it was proper for you to have informed me of the same.

(i) I am at a loss to know how you had come by the statement given by Sivalingam before the Village Munsiff and how the Village Munsiff happened to make an enquiry. It was proper for you to keep me fully informed of these particulars; and yet you were not pleased to do so.

(j) In taking statements from me, it was not proper for you to have questioned me on matters which are not relevant to the subject of enquiry.

3. Although the above points are contrary to law and justice, I yet bind myself by the order given by you appointed as my superiors and submit the following points in detail to your favourable notice:-

4. All that is said by Sivalingam in his statements before you and before the Village Munsiff is quite false. I have not at all induced him to do in the manner he has stated.

5. I believe that the above statements of Sivalingam were either due to the instigation of my enemies or due to his own wicked heart.

6. Sivalingam, when first questioned by the Head Master, did not say that ~~he wrote~~ I induced him to write the petition; but he subsequently

subsequently stated in his statement
before you that he wrote the petition
through my inducement. This con-
tradictory statement unmistakably shows that
he gave such a statement through
the influence of my enemies. Yet,
I am not at present prepared to say
who such persons are as induced
him to give the statement against
me.

7. As I have to go to a compe-
tent Court to clear myself from
the charge so unjustly imputed to me,
I have applied to you through the
proper channel (i.e. my Educational
Superiors) for the required records and
permission.

Your most obedient Servant
[sd] V. Murugesa Mudaliar
1st Asst Master,
Municipal Middle School,
Walajapet.

16th Octr 1893.

now under suspension.

[True Translation.]

Municipal Office,
Walajapet,
Novr 1897

[illegible]
24/11/97
Chairman,
Ex: Officio.

N.P. The Section herein quoted are those of the old Act IV of 1884.

8
24/3 Nov 1898

Extract from the Sub: Committee's report
dated 14th Dec: 1893.

To

The Chairman,
Municipal Council,
Walajapet.

Sir,

× × × ×

4. The Committee regret to have to ob-
serve that the teacher Murugesa Mudali-
has, during the inquiry, behaved in a most
insolent and insubordinate manner towards
the Committee as already brought to your
notice in letter dated 14-10-1893, which
conduct is borne out by his so-called
explanation of 16-10-1893, rife with in-
stances, bringing the charge of insubordi-
nation home to the teacher.

× × × × × × ×

I have &c.

Walajapet,
14th Dec: 1893.

[sd] M. Sundaresam,
President, Select Committee.

[True Extract.]

Municipal Office,
Walajapet,
24th November 1897.

[illegible]
24/11/97
Chairman,
Ex: Officio.

Deposition

Before the Head Assistant Magistrate
of North Arcot.

Calendar Case No: 13/1894 Camp: Chandragiri

Dated 6-3-94.

Name.	Seeha Chariar
Father's name.	Srinivasa Chariar
Caste	Brahman
Religion	Vishnu
Age	45
Profession	Sub: Registrar, Walaja
Residence	Walaja
Language	Tamil

Solemnly affirmed

I am a Municipal Councillor of Walaja. I remember the Council meeting held regarding the pseudonymous petition. Ex: A is the pseudonymous petition. I was present on each day of the special meetings. Statement Ex: A is the one that had been produced before the Walaja Municipal Select committee. Accused Sivalingam said that he gave statement Ex: B before the Village Munsif. Ex: C is the statement given by the accused before the select committee. I have signed it. Complainant was not present when the accused gave the statement Ex: C. At the enquiry as the complainant was disobedient and insubordinate, he was

suspended. He is still under suspension. He has been suspended until further orders.

x x The said petition was shown by the Committee to the complainant, at the time of the enquiry. The complainant said to the select committee that he would not look at the petition (Once the President of the Committee), Mr. Sundaresa Aiyar wanted the complainant to appear before the Committee; but he did not do so. On being ordered by the Chairman to do so, on the report of the same, the complainant attended before the committee. I know Seshachelli who is a witness in this case. He is a teacher in another Municipal School. Khadar Batcha Sahet, attender in the Head Asst. Collector's office was examined in the committee's enquiry. Khadar Batcha then said that the complainant then asked him in regard to the disposal of the pseudonymous petition in question. He said it was the complainant that first asked him about that petition. Re. Complainant said "why should that petition be seen (by me)?"

[sd] V. Sesha Chariar

Taken down in my presence and read over to the witness in Tamil and acknowledged by him to be correct.

[sd] R. F. Brimley,
6-3-98. Ag. Head Asst. Magte.

True Translation.
[sd] J. W. Hughes. 25/11/97
Ex. Officio,
Chairman, Walaj. Municipality.

Municipal Office,
Walajapet,
25th November 1897.

No. 659

From

J. W. Hughes Esquire,
Chairman, Ex: Officio,
Municipal Council,
Walajapet,

To

The Secretary to Government,
Local and Municipal Department,
Fort Saint George.

(Through the Director of Public Instruction.)

Sir,

In reply to your Endorsement Local and Municipal, dated 5th July 1897, No. 724, I have the honor to re-submit the petition with the remarks of the Council. Remarks were drafted and put before the Council and approved by them for submission. It will be seen that the real question at issue is, was Murugesa Mudaliar insolent and insubordinate to the Committee which was engaged in investigating the accusation which had been made against him of instigating a school boy to write a pseudonymous petition to the Sub: Magistrate?

2. The

2. The Council by a small majority has decided that Murugesa Mudaliar was guilty of insolence and insubordination.

3. The punishment passed on him was the refusal to allow back pay from 15th October 1893 to 17th February 1896, that is to say, he was practically fined more than Rs 1000. The Council is unanimously of opinion that such a punishment was excessive.

4. Copies of the records bearing on the conduct of the petitioner before the sub-committee are enclosed.

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

Justus Ives
25/11/97
Chairman,
Ex: Officio.

CE
25-11-97.

1
2938 of 1898

Encl(2) to B.P. 246
letter no 208
15-1-98.

Proceedings of the Director of Public Instruction.

Read-Letters from W.Murugesa Mudaliar, Assistant Master, Municipal Middle School, Wallajapet, dated 27th February, 17th April and 16th July 1896.

No 3384 dated 19th August 1896.

Under G.O.No 1654 M, L & M, dated 6th October 1891, the Chairman of a Municipal Council is vested with power to fine, suspend or dismiss any servant of such Council subject to an appeal tothe Municipal Council. As Murugesa Mudali's appointment does not require the sanction of Government he has no ground on which to appeal to Government. His printed petitions to His Excellency are therefore returned. Moreover, Murugesa Mudaliar is under a misapprehension in thinking that he is still a Government servant. His attention is drawn to G.O.No 472 M, Financial, dated 20th May 1886 under which teachers of Government schools transferred to local bodies cease from the date of such transfer to be Government servants.

(Sd) D.Duncan,
Director of Public Instruction.

/True Copy/
D Duncan
Director of Public Instruction.

Encl.

Proceedings of the Director of Public Instruction.

Encls (3) with G.O.'s letter no 508 15-1-98.

Read-Letter from W.Murugesa Mudaliar,First Assistant Master, Municipal High School,Wllajahnugger,dated 14th September 1896

No 2027 dated 25th February 1897.

It is true that those teachers in Government schools who are transferred to local bodies along with schools retain their pensionary privileges;but this does not entitle them to be treated as Government servants.For paragraph 2 of G.O.No 472 M, Financial, dated 20th May 1886, distinctly says that such teachers cease from the date of transfer to be Government servants and are to be classed as municipal servants.Nor does this order appear to have been cancelled either by G.O.No 918 L, local and municipal, dated 25th April 1889, or by G.O.No 1654 M of the 6th October 1891.The petitioner's contention that he is to be treated as a Government servant is apparently based on the following provision in paragraph 2 of the notification appended to G.O. No 1654 M, dated 6th October 1891:

"Subject to the provisions of section 40 (5) of the Act, the Chairman of ~~the~~ a Municipal Council, shall have power to fine, suspend, or dismiss any servant of such Council."
The section referred to in the qualifying part of the above paragraph, viz, section 40, applies only to those Government servants whose services are placed at the disposal of the Municipal Council on a formal application from that body for the purposes of this Act and further "provides that the Municipal Council shall pay any Government servant so employed the salary he may be entitled to receive under the rules of the branch of the Government service to which he belongs and shall also pay the Governor in Council such contribution towards the pension of such servant as may be payable under the rules in that behalf in force for the time being".The Director is therefore of opinion that the provisions of section 40 (5) on which the petitioner seems to rely "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 ~~wishing~~ 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," are not intended to apply to Government teachers transferred with their schools to a municipal council. As the petitioner is not one of the Government servants whose services are lent to the Municipal Council on a formal application from that body under section 40 of the Act he is not entitled to the benefit of section 40 (5) of the Act.

3. Moreover the status of educational servants working under the Council has been finally settled in G.O.No 472 M/ Financial/ dated 20th May 1886/ with special reference to sub-section 40 (5). The petitioner has therefore ceased to be a Government servant from the date of transfer of the school to the Municipality and is to all intents and purposes a municipal servant.

5. As the petitioner appeals to Government for refund of arrears of pay due to him and for redress against the acts of the Chairman, on which the Municipal/Council may have to express its opinion the proper course for him is to submit his appeal to Government through that body.

4. In these circumstances the Director does not see his way to modify this office Proceedings No 3884 dated 19th August 1896. The printed petitions to Government are accordingly returned again.

(Sd)) D.Duncan,
Director of Public Instruction.

/True Copy/

D Duncan

Director of Public Instruction.

Ex.

12/8/1897

OFFICE OF THE DIRECTOR OF
PUBLIC INSTRUCTION,
Madras, 15 January 1898.

No. 308.

293 M

From

THE HONOURABLE MR. D. DUNCAN, M.A., D.Sc. LL.D.,
DIRECTOR OF PUBLIC INSTRUCTION,
Madras,

To

The Secretary to Government,
Local and Municipal Department.

SIR,

I have the honour to submit herewith a letter from the Chairman, Municipal Council, Wallajapet, No 659 dated 25th November 1897, returning with his remarks your endorsement No 724, L and M Department, dated 5th July last, on the memorial of W. Murugesa Mudaliar, Assistant Master, Municipal High School, Wallajapet and to offer the following remarks:-

2. As observed by the Chairman, the real question to be decided is whether the petitioner, Murugesa Mudaliar, was guilty of insolence and insubordination to the Sub-Committee which had been engaged in enquiring into the charge brought against him of having instigated a school boy to write a pseudonymous petition against the Local Sub-Magistrate, and if so, whether the punishment inflicted on him by the Chairman was just and proper.

3. As regards the charge of insolence and insubordination brought against the petitioner, I beg to observe that the only portions of the petitioner's deposition before the Sub-Committee and of his written explanation which might lend colour to the charge are those in which he declines to look into the pseudonymous petition and questions the authority under which the Sub-Committee sat [illegible]ment upon him. I would not go into all the technical [illegible]ons raised

Ed. Cor.
22 1,000—1-7-97.

by the petitioner to the proceedings of the Sub-Committee, but would only remark that the pseudonymous petition which gave rise to the above proceedings was admittedly the work of a school boy, who could be induced by interested persons to say anything against a teacher whom he disliked, and whose testimony should not therefore be considered to be of any value. I cannot but express my surprise that the Magisterial authorities against whom the petition was addressed, instead of consigning it to the waste-paper basket, should have proceeded against the teacher, against whom not a particle of evidence as to his complicity in the matter could be adduced beyond the bare statements of the school boy. Further, the matter seems to have been one which should have been dealt with in a court of law, being quite un-connected with the petitioner's conduct as a teacher in the local municipal school. It seems to me that as the Sub-Magistrate did not succeed in getting the sanction he applied for, to prosecute the petitioner for defamation, the matter should have ended here. I do not understand why the Collector and District Magistrate referred the papers to the Chairman of the Municipal Council "with a request that he will consider the advisability of removing Murugesa Mudaliar from his post". The petitioner's objections to his conduct being inquired into by a Sub-Committee cannot be construed into insolence and insubordination.

5. Even granting for the sake of argument that the charge of insubordination against the petitioner is proved, I think that the punishment inflicted on him, viz, suspension followed by dismissal, was quite out of proportion to the offence. Though he has since been restored to his post, he appears to have sustained a loss of over Rs.1000 in the shape of arrears of pay which the Municipal Council refused to allow on his restoration.

4. As stated by the petitioner in paragraph 4 of his petition addressed to His Excellency the Governor in Council, two memorials were submitted to this office by the petitioner for transmission to Government; but I could not see my way to submit them to Government. For it will be seen from this office Proceedings Nos 3884 and 2027, dated 19th August 1896 and 25th February 1897, respectively (copies enclosed), that the reasons why they were returned to the petitioner were, first, that as under G.O. No 472 M, Financial, dated 20th may 1886, teachers of Government schools transferred to local bodies ceased. from the date of such transfer to be Government servants, the petitoner had to be considered a municipal servant who could, under G.O. No 1654 M, L & M Department, be fined, suspended or dismissed by the Chairman of the Municipal Council; and, secondly, that as his pay was less than Rs.50, he had no right of appeal to Govern-ment; and, thirdly, that the provisions of section 40 (5) of the District Municipalities Act of 1884 on which the petitioner seemed to rely apply only to those Government servants whose services have been lent to the Council on a formal application from that body. It was on a further representation by the petitioner that I raised in this office letter No 6541, dated 18th June 1897, the question as to whether G.O No 472 M, Financial, dated 20th May 1886, is to be considered as having been cancelled, and that, in passing orders on the above letter, Government has been pleased to direct that teachers in Government schools, whose services have been trahsferred 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 (vide G.O. No 2070 M, dated 20th September 1897).

5. In these circumstances, I would recommend that the Municipal Council be called upon to cancel the order of suspension and dismissal passed against the petitioner and also to pay all arrears of salaries due for the period of suspension.

6. I would not however support the petitioner's request to be restored to his original salary of Rs.40, as the reduction made during the period of suspension in the salary attached to his post, viz, from Rs.40 to Rs.35, was approved by Government in G.O. No 479 M, dated 10th April 1894, in connection with the budget proposals for 1894-95.

I have the honour to be,

Sir,

Your most obedient servant,

Director of Public In[illegible]uction.

[G. 26]
250—18-2-98.

LOCAL AND MUNICIPAL DEPARTMENT.

C. No. 2124 M of 1897 and
268 M and 893 M of 1898.

SUBJECT.

Suspension of an Assistant master
-Walajapet.

Seer FOR ORDERS.

The papers read above
relate to an appeal presented by
V. Murugesa Mudaliyar, an assistant
master of the municipal High School,
Walajapet and a Government servant
transferred to the municipality along
with the school, against the orders of
the Chairman and the municipal
council (1) suspending him from
his post from the 15th October 1893 to 18
February 1896, and (2) reducing his
pay from Rs 40 to Rs 35.

2. The facts of the case are briefly as follows:—

In the year 1893, a pseudonymous
petition was received, impugning
the conduct of the Stationary Sub-
magistrate of Walajapet in a certain
magesterial case. The Sub-Magistrate

being of opinion that the petition had been written by one Sivalingam, a pupil in the Walajapet High School, at the instigation of the petitioner, Murugesa mudaliyar, who was one of the Assistant masters in that school, applied for sanction to prosecute the petitioner for defamation; but this was not granted. The District Magistrate, however, referred the papers to the Chairman requesting him to consider the advisability of removing the petitioner, Murugesa mudaliyar, from his post. A sub-Committee was then appointed by the Chairman to enquire into the matter, and in the course of the enquiry, the petitioner is stated to have offended the Committee by the insolence of his demeanour; and he was for this reason suspended by the Chairman on the 15th October 1893. On receipt of the sub-Committee's report on the 25th December 1893, the petitioner was directed to clear his character in the courts. The petitioner thereupon lodged a complaint against the pupil (Sivalingam) charging him with

having defamed the petitioner by saying that he had induced him (the pupil) to write the petition against the Sub Magistrate, but as the prosecution failed, the municipal council dismissed the petitioner on the 22nd June 1894. Thereupon the petitioner protested on the 25th October 1894, against the council's order of dismissal, on the ground that the council had no power under the rules to inflict any original punishment, and in its proceedings of the 28th January 1896, the council reinstated the petitioner with effect from 18th February 1896, but the council did not allow him back-pay, as it considered the suspension an adequate punishment for the "breach of discipline he had been "guilty of." In the meantime, the municipal council proposed in its budget for 1894-95, the reduction of the salary of the petitioner's appointment from Rs 40 to Rs 35, which was approved in G.O. No 479 m, dated 10th April 1894, and the petitioner had, on his restoration therefore to take up the post

Vide para 3 of the Ch's letter V.

G.O. No. 479 m, 10-4-94. W.

his enemies who might have in-
duced the boy (Swaminigam) to
implicate him in the accusation,
he answered as follows:——

"Till I am furnished with all the
"papers, I am not prepared to answer,
"Yesterday I was all on a sudden
"sent for and examined and you
"(the councillors) only took down
"the points you wanted and refused
"to record something more which
"I requested you to add to the answers
"of some of the questions. If you
"kindly furnish me with all the
"papers which gave room for this
"suspicion, I think I will be able
"to answer all the questions satis-
"factorily."

This answer apparently offend-
ed the Committee, which referred
to the petitioner's conduct as follows
in its report:——

"On the next day, 13th Mr. Murugesa
Mudaliyar was called in to throw
light on certain vague answers of
his, which needed elucidation. But
to our great surprise, he without
any just cause for so doing, acted
in a most insubordinate manner
losing his temper, assuming

Vide. Copy of his statement in Cir. 293m of 1898. flagged Y.

Vide the page flagged Z.

"an air of insolence and taking
"us to task for omissions (really
"imaginary and unfounded) in
"the record of certain of his answers
"in the examination of the previous
"day, besides going the length of
"sternly refusing to explain certain
"matters till he is furnished with
"copies of all the papers connected
"with the case, when in fact they
"have not the least bearing on the
"explanation needed by him."

There does not appear to be
anything insolent or insubordinate
in the petitioner's statement, that
he was not prepared to answer
the questions put to him until
he was furnished with copies of
the records, but from the committee's
report it appears that his de-
meanour at the time of his
examination was objectionable.
Granting this was so, the reduction
in his salary from Rs 40 to Rs 35
itself seems to be a severe punish-
ment for his offence. It is therefore
submitted that the suspension
of the petitioner from 15th October 189
to 18th February 1896 may be cancel
and the petitioner be given his

It had no Connection with the offence H.T.

salary during that period, as recommended by the Director of Public Instruction in his letter read above.

S.R.
31/3/98

The petitioner was under suspension from the 15th October 1893 to 18th February 1896, or for a period of 28 months and 3 days. The total amount which will have to be paid to him as arrears of pay during this period is Rs 1,011, his salary being taken at Rs 40 per mensem from the 15th October 1893 to 10th April 1894, which is the date of the Government order reducing the salary of the petitioner's appointment from Rs 40 to Rs 35, and at Rs 35 thereafter. As the closing balance of the Walajapet municipal budget for 1898-99 is only Rs 1150, it is not possible to pay the whole of this back pay now. Article 215 (b) of the Civil Service Regulations however, says that "if the suspension of an officer as a penalty or misconduct, is upon reconsideration or appeal, held to have

"been unjustifiable or not wholly
"justifiable, or if an officer dismiss-
"-ed from office or suspended pend-
"-ing enquiry into his alleged
"misconduct, is after enquiry or
"upon reconsideration or appeal
"reinstated, then the revising or
"appellate authority may grant to the officer
"for the period of his absence from
"duty,
"(i) if the officer is honourably
"acquitted, an allowance equal
"to the full salary to which he would
"have been entitled, if he had contin-
"-ued to hold the appointment from
"which he was dismissed;
"(ii) otherwise, an allowance equal
"to such proportion of the full salary
"as aforesaid as to the revising
"or appellate authority may seem
"expedient."

As the Secretary was of opinion that the petitioner's conduct was not entirely free from blame it is submitted that under the second clause of Article 215 (b) above quoted, an allowance equal to half of the full pay which the petitioner would have drawn during the period

of his suspension may be granted to the petitioner. This will come to Rs 505, or Rs 500 in round figures, and can be met from the available closing balances.

V.R
5/4/98

Approved
W.L.
5/4/98

When given
When copied
When examined
When signed

READ AGAIN
189

CLERK

[L. & M.]
300-16-2-98.

suspension of an Assistant Master-Waiter

LOCAL AND MUNICIPAL DEPARTMENT.

Papers to be read in Proceedings:—

Again G.O., No. dated 189,

Again G.O., No. dated 189,

Current No. 2124-M of 1897, dated 28th May 1897, from the Private Secretary

" " 268-M " 1898, " 15th January 98, " the Director of Public Instruction

" " 293-M " 1898, " 15th January 98, " ——do——

See minute

ORDER. No 773 M. Mis. dt 18/4/98

The Government considers that the punishment of Suspension from 15th October 1893 to 18th Febraury 1896 inflicted cannot be upheld ~~went too far~~ on the petitioner ~~was unjustifiable~~ ~~& should be remitted~~. But as his conduct at the enquiry held by the Committee was ~~not entirely free from blame~~ Saber for long, the Government directs that, under Article 215 of the Civil Service Regulations, an allowance equal to one-half of the Salary to which he would have been entitled, if he had continued to hold his appointment, be granted to him for the period of his absence from duty and that this period be counted for pension.

2. The petitioner's request that his Salary may be increased

× See article 459 of the C.S.R.

ncreased from Rs 35 to Rs 40, Cannot
be complied with.

V.R
14/4/98

H I
16 4 98.

To

The Chairman M.C. Walajapet thro
" the Collector of North Arcot
" Director of Public Instruction
" Petitioner

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READ AGAIN G.O., No. 189. , DATED

PRESENT No.

REFERENCE TO C. No

GOVERNMENT .. .. A A A A A A A

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