[L. & M.
5,000—5-4-99.]

Local & Munl. (1899) Department.

MISCELLANEOUS.

G.O., No. 1831/M

DATED 8-12-99.

[Despatch Abstract.]

Establishment.

Informing the Munl. Council of Srirangam that the Govt. agrees with the Chairman, in considering that the resolution of the Council restoring the manager of the Munl. office to his appointment, was *ultra vires* & cancelling the said resolution.

BACK PAPERS.

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

FURTHER PAPERS.

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

-19-12-98.

LOCAL AND MUNICIPAL DEPARTMENT.

C. No. 2762-M & 2834-M

SUBJECT.

Cancellation of a resolution of the Municipal Council of Srirangam restoring the Municipal office Manager.

Misc ORDER. No 1831 Mis 8/12/99

The Government agrees with the Chairman in considering that the resolution of the Municipal Council dated 25th September 1899, restoring the Manager of the Municipal office to his appointment, was ultra vires, and accordingly cancels it under Section 35(1) of the Madras District Municipalities Act.

(From orders)

T.R.
5/12/99

H. T.
7-12-99.

P/O

airman. M.C. Srirangam,
through the Collector of
Trichinopoly.

2762 M & 2834 M

Cancellation of a resolution of the Municipal Council of Srirangam restoring the Municipal office Manager.

The Government agree with the Chairman in considering that the resolution of the Municipal Council dated 25th September 1899 restoring the Manager of the Municipal office to his appointment was ultra vires and accordingly cancels it under section 35(1) of the Madras District Municipalities Act.

(Pass orders)

7.12.99

[G. / 25]
250—18-2-98.

LOCAL AND MUNICIPAL DEPARTMENT.

C. Nos. 2762 and 2834 M.

SUBJECT.

Cancellation of a resolution of the Municipal Council of Srirangam. restoring the municipal office Manager

FOR ORDERS.

H.M.

× Vide Notification B printed on page 3 of the G.O.

The facts of the case are clearly set forth in the Chairman's letter. Under Section 35 (1) of the Madras District Municipalities Act, the Governor in Council can cancel a resolution of the Municipal Council "if, in his opinion, such resolution is in excess of the powers conferred by law". Under No. 2 of the rules issued in G.O. no. 918, dated 25th April 1889, an appeal lies to the Municipal Council in the case of all municipal servants fined in sums exceeding one rupee, suspended or dismissed by the Chairman. There are no rules as to the acceptance of resignations tendered by municipal servants. Obviously the Chairman who is the executive head of the

lighter

municipal administration and who has the power under Section 42 (1) of the Act to appoint Municipal servants, is competent to accept resignations tendered by municipal servants and it does not appear that the Municipal Council can interfere with his orders. The Chairman of the Municipal Council of Srirangam now requests that the Council's second resolution of the 25th September 1899, setting aside the Chairman's order of the 31st July 1899 and restoring the Manager of the Municipal Office to his post, may be cancelled under Section 35 (1) of the Act.

2. The question, therefore, for consideration is whether the Chairman's order of the 31st July 1899 on the Manager's application dated 28th April 1899, for being permitted to retire from the 1st May 1899, — amounted to dismissal of the Manager or was merely an acceptance of the resignation tendered by him. It is contended by the Manager that his application of the

Vide para 7 of his letter to the Chairman flagged E

Vide paras. 2 & 3 of his letter E

Vide para 6 of his letter E

Vide his letter flagged F

Vide para 5 of his letter Z

28th April 1899. was not a voluntary one, that as the Chairman returned it to him through the Councillor M.R.Ry M. Tiruvenkata Chariyar stating that he could not be relieved and that he should not press for any orders on the application, he subsequently gave up the idea of resigning his appointment; that when he was asked to return the application to the Chairman on the 24th June 1899, he gave it up under the impression that the Chairman would pass orders on it ~~to the effect~~ directing that he should continue to serve in the Office, and that the Chairman's order of the 31st July 1899 which was passed against his wishes and without ascertaining whether he was still desirous of retiring amounted to dismissal. The Chairman states that there is nothing except the Manager's own statement to show that his resignation was not voluntary, that finding himself unequal to the work, he appears to have deliberately sent up the resignation with the view of finding some

lighter

lighter work, that the resignation being objectionable in tone, was returned to him through the Councillor, M.R.Ry M. Tirumenkata Chariyar with the advice that it might be modified, that this Councillor appears to have also advised the Manager to withdraw it, that the Manager, however, kept the paper with him for about two months and returned it without altering its tone, and that as the Manager did not withdraw it, although he had ample opportunity to do so, his resignation was accepted on the 31st. July 1899. The Municipal Council in its resolution in question stated that "Considering the letter of Krishnaswami Nayudu, "dated 28th April 1899, and other cir-"cumstances, the Council can interfere "and the ex-manager can be warned "and restored and tried for some "more time", and the Collector observes that in passing this resolution, the Council apparently took the view that, as the Manager's resignation was not accepted

Vide para 1(2) of his letter

Vide para. 2 ibid.

accepted when it was offered and as he was afterwards compelled to tender it again, he had practically been dismissed, and that the facts do to a certain extent justify this view.

3. If the Government is of opinion that the Chairman's order of the 31st. July 1899 amounted to dismissal, it would appear that the Council had the power to set it aside and its second resolution of the 25th September 1899, was quite legal. If on the other hand the Government considers that the Chairman merely accepted the resignation tendered by the Manager, the Council had no power to interfere with the Chairman's order and the resolution in question must be regarded as ultra vires, and may be cancelled by Government under Section 35 (1) of the Act. It is submitted that the Manager's letter of the 28th April 99 should be treated as his resignation, because though it was irregularly returned to him and he was given an opportunity of modifying it or of even withdrawing it, he did not do so and

This seems the correct view. KT

Yes ALA

30/1

Chairman. 5.10.99.

and there was nothing to prevent his withdrawing it even if, as he says, he was compelled to return it, for there was an interval of one month between the date of its return and that of its acceptance by the Chairman. If this view is accepted, the Council's resolution of the 25th September 1899 may be cancelled as ultra vires under Section 25 (1) of the Act.

V.R.
29/11/99

K.T.
30.11.99.

6

K.T.

I agree.
A.A.
1.12.99

Local & Munl. (1899) Department.

CURRENT No. 27

COLLECTOR AND MAGISTRATE, TRICHINOPOLY.
12 OCT. 1899

Order

From M.R.Ry.
K. Seshadri Aiyangar Avargal
Chairman
Municipal Council
Srirangam.

No 448

Dated 5th October 1899

Received / Registered 21 OCT 1899 21st Oct. 99.

Enclosures 11

Spare copies nil.

SUBJECT.

Soliciting orders from Government whether the Council has, under the circumstances stated in the letter, power to entertain an appeal against the order of the Chairman accepting the resignation of the Manager and to restore him to his office.

V.R.
21/10

30/10.

Chairman. 5.10.99.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

List of Enclosures to No. 448 dated
5th October 1899

1. Resignation letter dated 28th April 99 of
T. S. Krishnaswami Naidu.

2. Report of the office Councillor M.R.Ry. M.
Thirumalachariyar avl. dated 21st August 1899.

3. Chairman's memo to the Council dated
25th September 1899.

4. Appeal petition dated 7th August 99. of
T. S. Krishnasami Naidu to the Council through
the Chairman.

5. Explanation resubmitting his Appeal
with the order of the Chairman thereon.

6. Requisition letter of 5. Councillors to
the Chairman dated 16th August 99.

7. Letter from the Chairman, to the five
Councillors No. 351 dated 18th August 99.

8. Second letter from the five Councillors
to the Chairman dated 19th August 99.

9. Extract from the Proceedings of the meeti
held on 25th August 99.— of Resolutions
10. Proceedings of the Special meeting hel
on the 25th September 99.

11. Petition dated 30th January 98 of T. S.
Krishnaswamy Naidu to the Municipal
Council through the Chairman.

H. Seshadriyengar
Chairman
5. 10. 99.

Municipal Councillor's office
Srirangam 28th april 99

To
The Chairman
Mcl Council
Srirangam

Most respected sir,

I beg to bring to your notice that I intend availing myself of the opportunity of retiring from service from the 1st. Proximo under resolution No. 12 of the Proceedings of the Council of 19th February 1898 as I am unwilling to serve for the reason that punishment in shape of fines is awarded to me for no reasons and for no [illegible]. Under the present circumstances, I am afraid that I might be brought into trouble if I continue in service any longer in this municipality where faction reigns supreme.

I beg therefore to favor me with an order to hand over my office charge to the Accountant or to any one whom you may choose to appoint for my place on the 1st. proximo on which date I am prepared to start for Madras to earn my livelihood, &c.

I beg to remain
most respectfully
Your most obedient servant
(Signed). T.S. Krishnam

(True Copy)
H. Seshadriyenga
Chairman. 5.10.99.

Enclosure No 1.

2762/m/99

No 1505

Srirangam
21st August/99.

To
The Chairman
Municipal Council
Srirangam.

Sir,

Re. Resignation of late Municipal Manager. Krishnaswami Naidu

With reference to the enclosed papers sent to me for a statement of facts in connection with the resignation of Krishnaswami Naidu so far as I am aware of, I have the honor to state as follows.

1. On or about the 7th May last during the course of our conversation you mentioned to me that he (Krishnaswami Naidu) resigned his appointment and said that certain statements made in the resignation letter were incorrect and objectionable. I thought that he might probably forfeit his gratuity if the letter were placed before the council as it stood and in consultation with you I advised him to omit the objectionable portions and to submit a fresh one. I also, although without your knowledge, ventured to advise him to withdraw it unless he had better prospects before him. He wanted time to consider over the matter and to let me know his opinion shortly. I waited for about a fortnight and then asked him to let me know what decision he had arrived at. He replied

The

that he was engaged in the preparation of the administration report and had no time to think over the matter and that he would let me know later on. Seeing that he did not arrive at any decision and that you were asking me often for the return of the letter, I asked him to return it, which he promised to do on the following day. But he did not keep up to his promise although I was repeatedly asking him for it. On the 24th June I wrote to him the letter referred to in the appeal petition and the resignation letter was sent to me by him on the same day without expressing his intention as to what he was resolved upon to do. I immediately sent it to Mr. Vasudeva Rao, who was then the Chairman-Delegate, for such notice as he deemed fit.

2. The statement of Krishnasamy Naidu contained in para 2. of his appeal petition is, under the circumstances, incorrect. In the first place, my letter of 24th June to him evidently goes to show that I gave the resignation letter to him entirely as a matter of favor to give him an opportunity of omitting the objectionable expressions referred to above or to withdraw it altogether, if he chose to do so. But he did not avail himself of this opportunity. You will also see in the same letter that I was asking repeatedly to return it as you often asked me to send it to you with a view of disposing it without dele

He is to blame himself for having kept

it for

the paper with him for such a length of time and returned it without withdrawing it or making the corrections pointed out therein by me,

I have the honor to be,

Sir,

your most obedient servant.

(Signed) M. Thiruvenkatachary.

(True Copy)

H. Seshadriyengar

Chairman.

5.10.99.

Enclosure
No. 2

[illegible]/99

Memo

The circumstances under which the Council has been requested to reconsider its resolution in connection with the alleged appeal of the Ex-manager, T. S. Krishnaswami Naidu are as follows:—

I. The majority of the members of the council held that the application of Krishnaswami Naidu dated 28th April, 1899 was not a resignation, but in his resubmission of appeal he himself had treated it as a resignation which fact, however, escaped the notice of the council.

II The statement contained in para. 2. of the said petition is quite incorrect

The office councillor took the resignation letter from me with the view of advising him to omit certain objectionable portion in it. In this connection, I refer the council to the report of the office councillor dated 21st August 1899

Further, it is extremely unlikely that I would have pressed him to con[illegible] in the circumstances that, only 4 days before the date of his resignation, I made the following remarks on the 2nd reminder it replies to audit notes:—

" It is [illegible] ther. that I have no man[illegible] his incompetency to be in charge of a responsible post of a manager.

(a) Mistakes in drawing cheques Nos 0088, 0158, 0187, and the very first page of cheque Book No. II of 98–99.

(b) Mistakes in drawing meeting notices &c and copying the proceedings, vide subject No. 30. of the meeting notice dated 20th September 98, the list showing the contribution for plague expenditure in other Districts with reference to para 3 of G. O No. 596 of 20th June 1898 and resolution No. 3 of the proceedings of the Council dated 22nd April 1899.

(c). Carelessness in payment to parties, vide his admission in the explanation dated 22nd October 1898.

(d) Mistakes in figure [illegible]
Administration report for 1898–99
vide memo [illegible]

Seshadriiyengar
Chairman.
5.10.99

(e). Mistakes [illegible] preparing [illegible]
vide the explanation [illegible]

(f) Delay in submitting [illegible]
etc. vide:-

1. Reference on Cur. No. [illegible] of
dated 3rd April 98 from the Collector
of Trichinopoly.

2. Chairman's memo dated
21st May 1898.

3 Chairman's [illegible] dated
24th April 1899 or the second reminder
received in connection with the audit [illegible]
[illegible]

Copies of Testimonials &c.

OF

T. S. KRISTNASAMY NAIDOO.

* * * * *

1. Kristnasamy has been employed in my office for 13 months. He has been regular in his attendance, attentive and diligent.

6—11—69. (Signed.) G. HEARN,
Late Inspector General of Police.
Southern Range.

2. S. Kristnasamy Naidoo, has been known to me for some months and I have occasionally employed him as a writer and accountant. I have always found him active and trustworthy and regret not to be able to give him permanent employment.

Trichinopoly, 17th February 1871. } (Signed.) H. SICCAMA,
Asst. Engr. G. S. I. Ry.

3. This is to certify that I have known the Manager Kristnasamy Naidoo, since the time of the Municipality was first established. He is a good hard working and well conducted young man, and has always given satisfaction to his superiors. I would at all times be glad to hear of his promotion to some higher appointment to which I am sure he would do justice.

29—11—78 (Signed.) C. BAULOO MOODALIAR,
Native Surgeon & Municipal Commissioner.

4. S. Kristnasamy Naidoo has been Manager of the Srirangam Municipality for the last 8 years and has given satisfaction in that post. I hope he may get promotion.

Trichy, 17—4—79. } (Signed.) HENRY SEWELL
Collector.

5. S. Kristnasamy Naidoo is a quiet hardworking and efficient officer. He is the Manager of this Municipal Office from the date the Towns Improvement Act was introduced into this Town. He has passed the General Test Examination and is anxious to get into Government service as the Municipality cannot afford to pay him more than his present pay. I heartly wish that his attempts will be crowned with success.

Srirangam, 6th March 1880. } (Signed.) H. VENCATA ROW,
Vice President.

6. S. Kristnasamy Naidoo has now been Manager of the Srirangam Municipal Office for 15 years, and has done his work steadily and well. My connection with the Municipality is not so close under the present system as under the old order, but I believe he continues to give satisfaction to those who are over him.

Trichy, 31—7—85. } (Signed.) HENRY SEWELL,
Collector.

7. Endorsement of the Chairman on the application to the Chief Engineer S. I. Railway Trichinopoly for the place of Head Clerk under a District Engineer.

* * * * *

No. 1358.

Srirangam
7th August 1899.

To

The Municipal Council
Srirangam
through the Chairman

The humble appeal of T. S. Krishnasamy Naidu manager of Srirangam Municipality on the following among other grounds.

Most respectfully showeth,

I submitted an application to the chairman of the Municipality on the 28th April 1899 to relieve me from 1st May 1899 in persuance of a proceeding of the Council of 19th February 1898

2. The Chairman without passing any order on it gave it back to me through Councillor M.R.Ry. M. Thiruvenkatachariar stating that he could not relieve me and that I should not press for any orders on the application.

3. Then I left the idea of going down on the ground that the chairman did not like to relieve me in conformity with the desire of the Council on its Proceedings noted above.

4. Then on or about the end of June 1899, M.R.Ry. Thiruvenkatachariar avl. asked me for the return of my application of 28th April

5. Then the same gentleman wrote to me

6.

Returned.
2. The provision of law or the bye-law under which this "appeal" has been presented to the council thro' the under-signed, should be quoted.
(Initials) K.S.
11.8.99.

tenders

Extract from the Proceedings of the Mun

Council, Srirangam at the meeting

held on the 19. February 1898.

× × × ×

Para 12 — Read application of the office manager, requesting the Council to permit him to retire from the service and to recommend for the grant of gratuity and the remarks of the Ex-officio Chairman thereon:—

The Council is glad to note the favorable testimony borne by the several officers regarding the good and faithful services of the manager to the Municipality and is desirous of retaining his services. If however he wishes to retire, the Council sanctions with pleasure the payment of the maximum gratuity allowed under the rules.

× × ×

(True copy) (signed) M. Srinivasac

H. Seshadriyengar Ex-officio Cha

Chairman 29.10.99

3/2834/M/99

W n given for copying
W n copied
h examined
hen signed 8/12

189 .

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

URRENT No.

ENCLOSURES TO C. No.

OVERNMENT .. .. .. A A A A A A A

GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.

N.B.—
A = Copy in full.
B = Not to be copied
P = Copy abstract only.
Q = Copy heading only.