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30/12/93
20-11-93 ✓

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ORDINARY, MS.

Public DEPARTMENT.	
G.O., DATED	20-11-93
No.	936 937

INDEXED.

When given for copying.

Recd 2/11

[Despatch Abstract.]

Considering with re-
ference to Mr F H Ham-
metts case, that the inter-
pretation of the Acct of
of "junior officer" in para
2 of No. 17 March 93
A 226 is correct &
in view of the Govt of
India the advisability
of the abolition of
the two 2nd grade
appointments—

These Proceedings
have been subsequently printed.

FOR PAPER, No.

FURTHER PAPER, No.

OF 18

READ AGAIN ORDER OF GOVERNMENT, DATED
18, No. , MISCELLANEOUS.

ENCLOSURES.

CURRENT No.

STATEMENT WITH DITTO.

ORDER OF GOVERNMENT.

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING KEPT FOR DESPATCH
IN ORIGINAL (not paged).

N.B.—

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Government {1893} of Madras. PUBLIC.

Recd.

Regd.

1893.

Enclosures

Spare copies

G.O., &c., Nos. 936, 937, 20th November 1893.

NOVEMBER.

Indian Civil Service.

Considering that the interpretation given by the Accountant-General to the expression "junior officer" in paragraph 2 of G.O., No. 226, dated 17th March 1893, is correct, and urging on the Government of India the advisability of the abolition of the two second-grade appointments in the Collector-Judge grade.

GOVERNMENT OF MADRAS.

PUBLIC DEPARTMENT.

READ—the following papers :—

From F. H. HAMNETT, Esq., Acting District Judge, Tinnevely, to the Chief Secretary to Government (through the High Court), dated 30th August 1893, No. 397.

- (1) Accountant-General's letter, No. 1926, dated 14th July 1893.
- (2) My letter, No. 307, dated 21st July 1893.
- (3) Accountant-General's letter, No. 2113, dated 28th July 1893.
- (4) My letter, No. 357, dated 12th August 1893.
- (5) Accountant-General's letter, No. 2367, dated 22nd August 1893.

I have the honour to submit the marginally-noted correspondence which has passed between me and the Accountant-General for the information of Government and to request that Government will be good enough to decide whether the Accountant-General has correctly interpreted G.O., No. 226, Public, dated 17th March 1893.

2. The Accountant-General has deprived me of acting allowances as first-grade Judge from the 8th February to the 14th March, on the ground that Mr. C. M. Mullaly was senior to me from the 8th February, and that Mr. G. E. L. Campbell was senior to me from the 23rd February, according to the definition of a junior officer given in paragraph 2 of the order above quoted.

3. The order in question defines an acting junior officer for the purposes of G.O., No. 560, dated 15th March 1883, thus :—

“In the case of acting incumbents, the officer with the least continuous service as acting Collector or Judge, etc.”

It would appear from the Accountant-General's letter No. 2367, dated 22nd August 1893, that he supplements the above definition by the insertion of the words “immediately preceding the date when the question of who is the junior officer arises” after the words “Collector or Judge” so that the definition should read thus according to his interpretation :—

“In the case of acting incumbents, the officer with the least continuous service as acting Collector or Judge *immediately preceding the date when the question of who is the junior officer arises.*”

This amplification of the definition appears to me to be quite unwarranted, and I submit that I am right in thinking that what Government intended was that, when the question of which of two officers was a junior officer for purposes of G.O., No. 560, dated 15th March 1883 arose, the test to be applied was to ascertain which officer had, *at any previous period*, acted continuously as Judge or Collector for the longest time, that officer being taken as senior to one who had acted continuously for a shorter period.

4. If my view is correct, then, on the 8th February 1893, I was senior to Mr. C. M. Mullaly, because prior to that date I had a continuous service as acting Judge from the 11th August 1890 to the 12th January 1891, a period of five months, whereas the longest period of continuous service as acting Judge or Collector put in by Mr. C. M. Mullaly prior to that date was, I believe, from the 2nd September 1888 to the 21st October 1888, a period of less than two months. For similar reasons Mr. G. E. L. Campbell was, I contend, my junior on the 23rd February under the definition of “junior officer” given in the Government Order under reference.

ENCLOSURES.

From T. W. RAWLINS, Esq., Accountant-General to the Government of Madras, to F. H. Hammet Esq., I.C.S., Acting District Judge, Tinnevely, No. 1926, dated 14th July 1893.

I have the honour to state that as Government in its order No. 455, Public, dated 13th June 1893, has ruled that the definition of the term “junior officers,” contained in G.O., No. 226, Public, dated 17th March 1893, should be substituted for that given in paragraph 1 of G.O., No. 704, dated 10th October 1892, you are entitled only to the salary of the second-grade appointment from 8th February to 14th March 1893. I request that Rs. 427-3-8, being the difference between acting allowance at Rs. 777-12-5 and that at Rs. 422-3-7 per mensem due for the above period, less annuity Rs. 17-1-5, Civil Fund Rs. 9-9-10 and income tax Rs. 10-1-8 may be recovered by monthly instalments at one-tenth of your salary.

From F. H. HAMNETT, Esq., Acting District Judge, Tinnevely, to the Accountant-General, Madras, No. 307, dated 21st July 1893.

In reply to your letter No. 1926, dated 14th July 1893, I have the honour to request that you will be good enough to inform me whether, in classing me as second-grade acting Judge from 8th February to the 14th March, any officer junior to me in total service other than Mr. Ramachandra Aiyar, Judge of Nellore, has been held to be senior to me according to the definition of the term “junior officer,” referred in your letter under reply.

From T. W. RAWLINS, Esq., Accountant-General to the Government of Madras, to F. H. Hammet, Esq., I.C.S., Acting District Judge, Tinnevely, No. 2113, dated 28th July 1893.

With reference to your letter No. 307, dated the 21st July 1893, I have the honour to state that under Madras G.O., No. 226, Public, dated 17th March 1893, Messrs. C. M. Mullaly and G. E. L. Campbell were held as senior to you and allowed the salary of the first grade, the former from 8th February and the latter from 23rd February 1893.

Under the above Government Order the second-grade salary is admissible to the two acting officers, whether senior or junior in service, who have the least continuous service as acting Collector or Judge. Your continuous acting service began on the 8th February 1893, and that of Messrs. Mullaly and Campbell on the 9th January 1893 and 7th February 1893, respectively. Hence the last two officers were classed as seniors to you.

From F. H. HAMNETT, Esq., Acting District Judge, Tinnevely, to the Accountant-General, Madras, No. 357, dated 12th August 1893.

In reply to your letter No. 2113, dated 28th July 1893, I have the honour to state that I am unable to accept your interpretation of the expression “continuous service” used in the definition of junior officer, given in G.O., No. 226, Public, dated 17th March 1893.

2. You appear to interpret “continuous service” of an acting officer to mean uninterrupted service as acting Collector or acting Judge immediately preceding the date when the question of seniority arises; but there appears to me to be nothing in the definition contained in the order under reference to restrict the “continuous service” to only such “continuous service” as immediately precedes that date. The expression “continuous service” in the definition is quite general and includes, I consider, any period of “continuous service” as acting Collector or acting Judge at any time before the date when the question of seniority arises. If my view is correct, my continuous service as acting Judge from the 11th August 1890 to the 12th January 1891, a period of five months, was, on the 8th February 1893, more than the continuous service of Mr. Mullaly, viz., from 2nd September 1888 to 21st October 1888, a period of less than two months as acting Collector, or of Mr. G. E. L. Campbell, who does not appear to have ever acted as Judge or Collector prior to the 7th February 1893.

3. I request you will inform me whether you are prepared to make a reference to Government on this point or whether you wish me to do so.

From J. E. COOK, Esq., Officiating Accountant-General to the Government of Madras, to F. H. Hammett, Esq., I.C.S., Acting District Judge, Tinnevely, No. 2367, dated 22nd August 1893.

With reference to your letter No. 357, dated the 12th of August 1893, I have the honour to state that under Madras G.O., No. 226, Public, dated 17th March 1893, two periods of acting service as Judge or Collector form one period of continuous service only if they are not interrupted

by an appointment other than that of Collector or Judge or by leave; that is, the two periods constitute uninterrupted continuous service as acting Collector or Judge only if from one such appointment an officer is transferred *direct* to another. Your service as acting Judge of Gódvári from 11th August 1890 to 12th January 1891 was not taken into account because periods spent by you as acting Sub-Collector have intervened between it and your present appointment.

If you still disagree with this opinion, you are at liberty to make a reference to Government on the subject, as under the rules I am precluded from doing so.

No. 2370.

Forwarded to the Chief Secretary to Government.

HIGH COURT OF JUDICATURE, APPELLATE SIDE,
MADRAS, 7th September 1893.

H. W. FOSTER,
Registrar.

No. 1665.

The Accountant-General is requested to report the circumstances under which Mr. F. H. Hamnett was admitted to the salary of an acting first-grade Judge on the 15th March 1893; whether any, and if so which, officers shown below Mr. Hamnett in the Civil List besides Messrs. Mullaly and Campbell were acting as first-grade Judge or Collector from the 8th February to the 14th March 1893, and which officer besides Mr. Hamnett was considered an acting second-grade Collector or Judge for this period.

21st September 1893.

J. F. PRICE,
Chief Secretary.

From T. W. RAWLINS, Esq., Accountant-General to the Government of Madras, to the Chief Secretary to Government, dated 4th October 1893, No. 2936.

With reference to your endorsement No. 1665, dated the 21st of September 1893, on letter dated 30th August 1893, No. 397, from Mr. F. H. Hamnett, I have the honour to state that Mr. Hamnett's continuous service as acting Judge was interrupted by his reversion to a Sub-Collectorate from the 20th December 1892 to the 7th February, and his present period of continuous service as acting Judge counts only from the 8th February. Mr. Mullaly and Mr. G. E. L. Campbell having taken charge of the Ganjam Judgeship and the Nellore Collectorate on the 9th January and 7th February respectively had, during the period Mr. Hamnett refers to, a longer continuous service than himself and were therefore regarded as his seniors in accordance with the rule contained in G.O., No. 226, Public, dated 17th March 1893. Until Mr. Andrew and Mr. J. A. Cumming had, on the 14th March and 15th March, taken charge of the Salem and Kurnool Collectorates, Mr. Hamnett remained one of the two junior officers acting as Collector or Judge and as such acted in the second grade, but these gentlemen being both junior to him in continuous acting service, he acted in the first grade from the latter date.

2. Messrs. Mullaly and Campbell were the only officers shown below Mr. Hamnett in the Civil List who acted in the first grade at any period between the 8th February and 14th March. During this period the other acting second-grade officer was Mr. Campbell up to the 22nd February and Mr. Rawson from the 23rd February onwards.

3. I would respectfully point out to Government that I indicated in my letter No. 3593, dated 3rd December 1892, that difficulties of this nature were likely to arise. A case has just occurred in which Mr. A. E. C. Stuart, who has had a break in his continuous acting service as Collector, and who therefore is to be reckoned as having commenced to act as Collector for this purpose on the 19th September, is

graded as an acting second-grade officer, while Messrs. Broadfoot, Rawson, Dance, H. A. Stuart, Bell and Manavedan Raja, his juniors in service, are acting in the first-grade. I submit that the suggestion I made in that letter is the only way by which hardships of this nature can be avoided.

ORDER—No. 936, Public, dated 20th November 1893.

The Government considers that the Accountant-General's interpretation of G.O., No. 226, dated 17th March 1893, is correct.

(True Extract.)

J. F. PRICE,
Chief Secretary.

To the Accountant-General.
„ F. H. Hamnett, Esq., I.C.S.

LETTER—No. 937, Public, dated 20th November 1893, to the Secretary to the Government of India, Home Department.

With reference to the correspondence ending with paragraph 2 of your letter of the 8th August 1890, No. 1543, in which it was stated that His Excellency the Governor-General in Council regretted his inability to reconsider, in connection with the subject of the provincial service, the question of the abolition of the two second-grade appointments in this presidency, I am directed to urge once more upon the Government of India the advisability of withdrawing the orders conveyed in paragraph 10 of Mr. Mackenzie's letter of the 13th October 1881, No. 1646.

2. I am to refer to the arguments which have been brought forward in the previous correspondence * on this subject, and to state that a further experience of the working of the order in question has only resulted in conclusively proving

to this Government that the two appointments are entirely out of place in a service such as the Civil Service of this presidency, which is not personally graded. Their inclusion has moreover been the cause of great difficulty as regards the adjustment of salaries and of much discontent among the Civilians of this province. The two salaries of Rs. 1,800 are, as pointed out once before, not attached to any particular districts, and as a result it very often happens that the salary of an officer who is not transferred and whose work is no way changed is suddenly retrenched.

3. In the opinion of His Excellency in Council the abolition of the two second-grade appointments would materially conduce to more efficient administration, in that it would allay the discontent which now exists and the uncertainty in the minds of acting officers as to their emoluments. I am therefore to place the matter before the Government of India and to express the earnest hope that the wishes of His Excellency in Council on this point may be acceded to.

J. F. PRICE,
Chief Secretary.

Exd. A. J. D'Monte.

NOTES CONNECTED WITH G.O., Nos. 936, 937, PUBLIC, DATED
20TH NOVEMBER 1893.

[SUBJECT.—*Interpretation of the term "Junior Officer" among members of the Indian Civil Service.*]

From Mr. F. H. Hamnett, [I.C.S., No. 397, dated 30th August 1893 [page 2 of collection].

Endorsement of the High Court, No. 2370, dated 7th September 1893 [page 4 of collection].

Memorandum to the Accountant-General, No. 1665, dated 21st September 1893 [page 4 of collection].

From the Accountant-General, No. 2936, dated 4th October 1893 [pages 4 and 5 of collection].

For the Chief Secretary—

Mr. Hamnett considers that the interpretation to be placed on clause (ii) of G.O., No. 226, Public, dated 17th March 1893, is that when the question arises as to which of two officers is the junior the test to be applied is to ascertain which of them has at any previous period acted continuously as Judge or Collector for the longest time.

2. The Accountant-General's interpretation—and the correct interpretation it is submitted—is that the junior officers are those with the least continuous service as acting Collector or Judge immediately preceding the date when the question arises as to which are the junior officers.

3. The case appears to stand as follows :—

Mr. C. M. Mullaly assumed charge of the District Court of Ganjam on the 9th January 1893 ;

86. Mr. G. E. L. Campbell took charge of the Nellore Collectorate on the 7th February 1893 ;

65. Mr. F. H. Hamnett took charge of the Tinnevely Court on the 8th February 1893 ;

73. Mr. E. C. Rawson assumed charge of the Gódvári Collectorate on the 23rd February 1893 ;

68. Mr. J. Andrew assumed charge at Salem on the 14th March ; and

111. Mr. J. Cumming took charge of the Collectorate of Kurnool on the 15th March.

4. The continuous service of these officers [as defined * in clause (ii) of G.O., No. 226, dated 17th March 1893] as acting Collectors or Judges began on the dates mentioned against their names.
* i.e., taking the Accountant-General's interpretation of that clause as correct.

5. It will be seen that there were not two officers with less continuous service than Mr. Hamnett till the 14th March and that he was one of the junior officers for the purposes of the order of 17th March till the 14th March.

6. Submitted that this was an accident likely to befall any officer and that Mr. Hamnett's case does not call for any special treatment.

7. Attention is solicited to paragraph 3 of the Accountant-General's letter.

C. M. SCHMIDT.
7-10-93.

J. F. PRICE.

H.M. and circ.

J. F. PRICE.
10-10-93.

I agree. The Accountant-General's construction is perfectly right.

H. E. S^[TOKES].
11-10-93.

J. H. G^[ARSTIN].
14-10-93.

I do not agree with the Accountant-General. When this subject came up for consideration the other day, it was decided that, in cases of acting Collectors and Judges, the junior officer was to be so considered who had the least continuous service in such acting appointment. That is, that an officer who could show a continuous period of twelve months (say) should be held to be senior to one who could only show (say) three months—no matter how long back each officer might go to be able to produce his record of service. At least this is what I meant. For it seems to me to be wrong that a young Sub-Collector, who might have been holding an acting appointment as acting Collector or Judge for two or three months, should be in the first grade, when a much older man who had at one time been acting as such for months—perhaps years—comes back from leave and is put into second grade. I would never have agreed to the insertion of the underlined paragraph which has now made its appearance for the first time and which quite alters the sense of the Government order.

Mr. Brodie will shortly return from leave, and, if the Accountant-General's interpretation is to be held to be correct, he will very likely find himself classed as junior officer, because the lowest acting Collector on the list may have been acting for a month, whereas before he went away he had been acting Collector for years. This cannot be right. It does not mend matters for him to say that he may be junior officer only a short time. The intention of the rule is that the officer with least experience should get the least pay, and therefore we should see that this is done. It is an absurd rule, and I really think that the time has come for us to urge on India that it should be done away with.

W^[ENLOCK].
22-10-93.

Resubmitted to Honourable Members with reference to H. E. the Governor's note.

J. F. PRICE.
30-10-93.

H. E. the Governor seems to have overlooked the word "continuous" in the Government order of which the passage he has underlined in the note correctly expresses the sense and does not alter it. That I can see. We deliberately altered the former rule, which it seems His Excellency would restore, viz., that the officer whose first appointment as acting Collector or Judge was latest in date was to be the junior officer. The intention and effect of the alteration were fully stated in the notes in G.O., No. 226, dated 17th March 1893—especially those on pages 2 and 3 of printed notes—and the resulting decision is correctly given in paragraph 1 (ii) of the Government order which was passed by His Excellency the Governor on the 14th March. The consequences of the order now stated by His Excellency were fully foreseen and considered; and I do not agree in the opinion that they involve wrong or furnish ground for reconsideration of the order. It would only create further confusion. I would maintain the Government order above quoted, and rule that the Accountant-General's interpretation is correct, as it certainly is.

H. E. S^[TOKES].
7-11-93.

H. E. the Governor seems to have passed the G.O., No. 226, dated 17th March 1893, under a misapprehension as to the meaning and scope of the last paragraph. I think the Accountant-General's reading of that order is correct and that we had better make no change in it. No doubt it may be a little hard on an officer on return from leave to find that he is for a time acting as second-class Judge or Collector while his junior is acting as first-class; but it can only last for a very short time seeing that there are only four such appointments, and that as regards permanent promotion

the senior will always give the junior the go-by. The mischief all arises from two districts being classed as second class. I don't object to ask India to let them be classed as first class, but I fear they may refuse.

J. H. G^[ARSTIN].
10-11-93.

H. E. the Governor.

J. F. PRICE.
15-11-93.

I have not overlooked the word "continuous". The rule, if read as Mr. Hamnett reads it, would be very simple to work and would be fair to all.

W^[ENLOCK].
16-11-93.

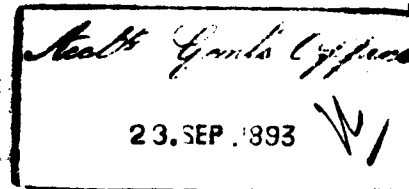
No: 397.

Tinnevely District Court

30 August 1893.

From,

F. H. Hammett Esquire,
Ag. District Judge,
Tinnevely.



The Chief Secretary to Government,
Fort St. George,
Madras.

(Through the High Court)

Sir,

1. Accountant General's
letter No 1926 dated 14th
July 1893.

2. My letter No 307 dated
21st July 1893.

3. Accountant General's
letter No 2113 dated 28th
July 1893.

4. My letter No 357 dated
12th August 1893.

5. Accountant General's
letter No 2367 dated 22nd
August 1893.

I have the honour to submit the
marginally noted correspondence which
has passed between me and the
Accountant General for the information
of Government and to request that
Government will be good enough to
decide whether the Accountant General has
correctly interpreted G. O. No 226, Public, dated
17th March 1893.

W. H. 2.
23 9

The Accountant General has deprived
me of acting allowances as 1st Grade Judge from
the 8th February to the 14th March on the ground that
Mr. J. M. Mulla was senior to me from the
8th February and that Mr. G. E. L. Campbell
was senior to me from the 23rd February according
to the definition of a junior officer given in
para 2 of the G. O. above quoted.

3. The G. O. in question defines an acting junior officer for the purposes of G. O. N° 560 dated 15th March 1883, thus:-

"In the case of acting incumbents, the officer with the least continuous service as Acting Collector or Judge etc"

It would appear from the Accountant General's letter N° 2367 dated 22nd August 1893 that he supplements the above definition by the insertion of the words "immediately preceding the date when the question of who is the junior officer arises" after the words "Collector or Judge" so that the definition should read thus according to his interpretation:-

"In the case of acting incumbents, the officer with the least continuous service as ^{Collector} Acting or Judge immediately preceding the date when the question of who is the junior officer arises."

This amplification of the definition appears to me to be quite unwarranted, and I submit that I am right in thinking that what Government intended was that, when the question of which of two officers was a junior officer for purposes of G. O. N° 560 dated 15th March 1883 arose, the test to be applied was to ascertain

which officer had, at any previous period, acted continuously as Judge or collector for the longest time, that officer being taken as senior to one who had acted continuously for a shorter period.

4. If my view is correct, then, on the 8th February 1893, I was senior to Mr C. M. Mulla because prior to that date I had a continuous service as Actg. Judge from the 11th August 1890 to the 12th January 1891, a period of five months, whereas the longest period of continuous service as Actg. Judge or collector put in by Mr C. M. Mulla prior to that date was, I believe, from the 2nd September 1888 to the 21st October 1888, a period of less than two months. For similar reasons Mr G. E. L. Campbell was, I contend, my junior on the 23rd February under the definition of "junior officer" given in the G. O. under reference.

I have the honour to be,

Sir,

Your most obedient servant

F. Hammett

Ag. District Judge

By

Gazetted Civil Department
No. 1926.

Fort Saint George, 436
Accountant General's Office,
14th July 1893.

From,

J. W. Rawlins Esquire,

Accountant-General to the Government of
Madras.

To,

J. F. Sammett Esquire,
Ag. District Judge, Tinnevely.

Sir,

I have the honor to state that as
Government in its order No. 455^{Public} dated 13th June 1893
has ruled that the definition of the term "Junior
Officers" contained in Government Order No. 225 Public
dated 17th March 1893 should be substituted for that
given in para 1 of Government order dated 10th October
1892 No. 704, you are entitled only to the salary of the
2nd grade appointment from 8th February to 1st March
1893, I request that Rs 427. 3. 8 being the difference
between acting allowances at Rs 777. 12. 5 and that
at Rs 422. 3. 7 per mensem due for the above
period less annuity 17. 1. 5, Civil Fund 9. 9. 10
and Income Tax 10. 6. 8 may be recovered by monthly
instalments at one tenth of your salary.

I have the honor to be,

Yours most Obedient Servant

(Signed) W. Miller

Asst. Accountant General

J. F. Sammett

Ag. District Judge

(True copy)

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Enclosure No 1.

Sub No 4375/93.

No 307

21st July 1893.

From,

F. H. Hammett Esquire,
Adj. District Judge,
Tinnevely

To,

The Accountant General,
Fort St. George, Madras.

Sir,

In reply to your letter No 1926 dated
14th July 1893 I have the honour to request that
you will be good enough to inform me
whether in classing me as 2^d Grade Acting
Judge from 8th February to the 14th March any
officer junior to me in total service other than
Mr Ramachandra Iyer, Judge of Nellore, has
been held to be senior to me according to
the definition of the term "junior Officer" referred
to in your letter under reply

I have &c

(signed) F. H. Hammett

Adj. District Judge

(True copy)

F. H. Hammett

Adj. District Judge

64

Encls. No 2
Sub No 4375/93

Gazetted Audit Department ^{Printed} Port Saint George
Accountant General's Office
28th July 1893.
No 2113

From,

J. W. Rawlins Esquire,
Accountant General to the Government of
Madras.

To,

J. F. Hammett Esquire,
Ag. District Judge, Trinnevelly.

Sir,

With reference to your letter No. 307, dated
the 21st July 1893, I have the honor to state that under
Madras Government order No. 226, Public, dated 17th
March 1893, Messrs. C. M. Mulla and C. E. Campbell
were held as senior to you and allowed the salary of the
1st Grade, the former from 8th February and the latter
from 23rd February 1893.

Under the above Government order the second Grade
Salary is admissible to the two Acting Officers whether
senior or junior in service who have the least continuous
service as Acting Collector or Judge. Your continuous acting
service began on the 8th February 93 and that of Messrs.
Mulla and Campbell on the 9th January 1893 and 1st February
1893 respectively. Hence the last two Officers were
as seniors to you.

I have the honor to be,

Sir,

Your most Obedient Servant

W. Mulla

For Assistant Accountant General

(True copy)

J. F. Hammett

Ag. District Judge

By

Encls: no 3.
Sutten 4375/93.

N^o 357

12th August 1893

From,

J. H. Hammett Esquire,
Ag. District Judge,
Tinnevely

To, The Accountant General,
Fort St. George, Madras

Sir,

In reply to your letter N^o 2113 dated
25th July 1893 I have the honour to state that I
am unable to accept of your interpretation of the
expression "continuous service" used in the
definition of Junior officer given in G.O N^o 226
Public dated 17th March 1893.

2. You appear to take "continuous service" of
an acting officer to mean uninterrupted service
as Ag. Collector or ^{Ag.} Judge immediately preceding
the date when the question of seniority arises;
but there appears to me to be nothing in the
definition contained in the G.O under reference
to restrict the "continuous service" to only
such "continuous service" as immediately pre-
cedes that date. The expression "continuous service"
in the definition is quite general and includes
I consider any period of "continuous service"
as Ag. Collector or Ag. Judge at any time
before the date when the question of seniority
arises

Encl. no 4
Intt No 4375/93

arises. If my view is correct my continuous service as stg. Judge from ^{the 11th} August 1890 to the 12th January 1891, a period of five months was on the 8th February 1893 more than the continuous service of Mr Mullaly, viz from 2nd September 1888 to 21st October 1888, a period of less than two months as stg. collector of Mr G. E. L. Campbell who does not appear to have ever acted as Judge or collector prior to the 7th February 1893.

3. I request you will inform me whether you are prepared to make a reference to Government on this point or whether you wish me to do so.

I have &c

(Signed) F. H. Hammett
Ag. District Judge

(True copy)

F. H. Hammett
Ag. District Judge

BY

From
Gazetted Audit Department

Fort Saint George
Accountant General's Office
22nd August 1893.

No 2367

From

J. E. Cook Esquire

Officiating Accountant General to the
Government of Madras,

To

J. A. Hammett Esquire,

Ag District Judge, Tinnevely.

Sir,

With reference to your letter No 357 dated the 12th of August 1893, I have the honor to state that under Madras Government order No 226 Public dated 17th March 1893 two periods of acting service as Judge or Collector form ~~one period~~ of continuous service only if they are not interrupted by an appointment other than that of Collector or Judge or by leave; that is the two periods constitute uninterrupted continuous service as acting Collector or Judge only if ~~from~~ ^{by} from one such appointment an officer is transferred direct to another. Your service as acting Judge of Godavari from 11th August 1890 to 12th January 1891 was not taken into account because periods spent by you as acting Sub Collector have intervened between it and your present appointment.

If you still disagree with this opinion you are at liberty to make a reference to Government on the subject as under the rules I am precluded from doing so.

I have the honor to be

Sir,

Your most obedient servant

(Signed) W. Miller

Asst. Accountant General

(True copy) F. H. Hammett

Ag. District Judge

3
P. A. L. S.

24/8

BY

Encls. 205.

Sub chs 4875/93.

4
From

The Ag. District Judge,
Tinnevely.

Put for 455 on 13-6-93 Run
 " " 226 on 17-3-93 "
 " " 704 on 10-10-92 "

Dated 30th August }
Sent - 31st — do. — }
Recd? 4th September } 1893

Enclosure 5

Submitting certain corres-
pondence between the Ac-
countant General and the
Maj. District Judge and re-
questing Govt to decide
whether the Accountant
General has correctly
interpreted the expression
"Junior Officer" as contained
in G.O. No 226. Public,
dated 17th March 1893.

For SA
No S. e. of 6/55-
is available to the
S. e. partners.

P.T.O.

No 2370.

Forwarded to the Chief
Secretary to Government.

High Court of Judicature,
Appellate Side,
Madras, 7th September
1893.

98
No. 1665-22/9/93

The Accountant General is requested to report the period during which ~~Mr. E. L. Campbell~~ acted as Collector of Nelson and the circumstances under which Mr. J. H. Hammett was admitted to the salary of an acting 1st Grade Judge on the 15th March 1893, ~~et~~. ~~Should also be stated whether any~~ and if so which, officers shown below Mr. Hammett in the Civil ~~Service List~~ ^{British Service List} were acting as 1st Grade Judge or Collector from the 8th February to the 14th March 1893, and which officers

Based on the above, was considered an
CS acting 2nd Grade Coll. or Judge for this
~~18~~ 19 ~~19~~ 19

¹⁴⁶
Gazette and Audit Department

Fort Saint George.
Accountants General's Office.
22nd August 1893

Gram, N^o 2367.

J. E. Cook Esq^r.
 Officiating Accountant General to the
 Government of Madras.
 J. M. Hamme Esquire
 Acting District Judge, Tinnevely.

Sir

With reference to your letter N^o 357 dated the 12th of August 1893, I have the honour to state that under Madras Government order N^o 226 Public dated 17th March 1893 two periods of acting service as Judge or Collector ^{from} from one period of continuous service only if they are not interrupted by an appointment other than that of Collector or Judge or by leave; that is the two periods constitute uninterrupted continuous service as acting Collector or Judge only if from one such appointment an officer is transferred direct to another.

Your service as acting Judge of Godavari from 11th August 1890 to 12th January 1891 was not taken into account because periods spent by you as acting Sub Collector have intervened between it and your present appointment.

If you still disagree with this opinion
you are at liberty to make a reference to Government on the
subject as under the rules I am precluded from doing so.

I have the honour to be,
Sir,

Your most Obedient Servant
(Sd.) W. Miller.
Asst Accountant General

(Three Copies) J. H. Hamner

From
The Ag District Judge,
Tinnevely.

Dated 30th August
Sent 31st do } 1893.
Recd 4th Sept^r

N^o 397

Enclosures 5.

Submitting certain correspondence between the Accountant General and the Acting District Judge and requesting Government to decide whether the Accountant General has correctly interpreted the expression "Junior Officers" as contained in G.O. No 226 Public, dated 17th March 1893.

N^o 2370
Forwarded to the Chief Secretary to Government
High Court of Judicature (Ct) H^{on}ble
Appellate Side } Registrar
Madras 7th September 1893

Sndt N^o 1665
The Accountant General is requested to report the circumstances under which M^r J. H. Hammett was admitted to the salary of an acting 1st Grade Judge on the 15th March 1893, whether any and if so which, officers shown below M^r Hammett in the Civil list besides Mess^{rs} Mullaly and Campbell were acting as 1st Grade Judge or Collector from the 3rd February to the 14th March 1893, and which officer besides M^r Hammett was considered an acting 2nd Grade Collector or Judge for this period.

Indirectly

Chief Secretary

Notarized
21st September 1893

Gazetted and DEPARTMENT.

FORT ST. GEORGE,
Accountant-General's Office,
4 October 1893.

No. 2936

From

T. W. Rawlinson Esq^r,

To

ACCOUNTANT-GENERAL TO THE
GOVERNMENT OF MADRAS,
The Chief Secretary to Government
Public Department.

SIR,

With reference to your Endorsement N^o 1665 dated the 21st of September 1893 on letter dated 30th August 1893 N^o 397 from M^r J. H. Hammett, I have the honor to state that M^r Hammett's continuous service as acting judge was interrupted by his reversion to a Sub-collectorate from the 20th December 1892 to the 7th February, and his present period of continuous service as acting judge commences only from the 8th February. M^{rs} Mullaly and M^{rs} J. E. L. Campbell having taken charge of the Ganjam judgeship and the Netlore Collectorate on the 9th January and 7th February respectively, had during the period M^r Hammett refers to a longer continuous service than himself and were therefore regarded as his seniors in accordance with the rule contained in G.O. dated 17th March 1893 N^o 226 Public, until M^r Andrew & M^r J. A. Cumming had on the 14th March and 15th March taken charge of the Salem & Kurnool Collectorates, M^r Hammett remained one of the two junior officers acting as collector or judge and as such acted in this grade.

but three gentlemen being both junior to him in continuous acting service, he acted in the 1st grade from the latter date.

2. Messrs Mullaly and Campbell were the only officers shown below Mr Sammett in the Civil List who acted in the 1st grade at any period between the 8th February and 14th March. During this period the other acting second grade officer was Mr Campbell up to the 22nd February and Mr Rawson from the 23rd February onwards.

3. I would respectfully point out to Government that I indicated in my letter No 3593 dated 3rd December 1892 that difficulties of this nature were likely to arise. A case has just occurred in which Mr A. E. C. Stuart who has had a break in his continuous acting service as Collector and who therefore is to be reckoned as having commenced to act as Collector for this purpose on the 19th September, is graded as an acting second grade officer, while Messrs Broadfoot, Rawson, Dance, A. A. Stuart, Bell and Manandau Raja his juniors in service are acting in the 1st grade. I submit that the suggestion I made in that letter is the only way by which hardships of this nature can be avoided.

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


Accountant General

Entered with
Slip in original
1893. 17. 3. 17
No. 216

Public (1893) DEPARTMENT.

From

THE ACCOUNTANT-GENERAL,

MADRAS,

To

THE Chief Secy to Government
Public Department

No. 2936

Dated 4 }
Received 5 } October 93

Ch. 2446 & c. ret.

No.



Subject.

Stating that Mr. Hammett's continuous service as a Judge was interrupted by his reversion to a sub-collectorate from the 30 Decemr. '92 to the 7. February, and his present period of continuous service as a Judge counts only from the 8. February

Public DEPARTMENT.

Current No. 2446 + 2685

From High Court & Accl. Gmbl.

Dated 30. August + 4. October 1893.

FOR ORDERS.

I do not agree with the Accl. General. When this subject came up for consideration the other day, it was decided that in cases of acting collectors & Judges, the junior officer was to be so considered who had the least continuous service in such acting appointment. That is, that an officer who could show a continuous period of 12 months (say) should be held to be senior to one who could only show (say) 3 months. no matter how long back each officer might go to be able to produce his record of service. At least this is what I meant. For it seems to me to be wrong that a young sub-collector who might have been holding an acting appointment as acting collector or Judge should be senior for two or 3 months, should be in the first grade, when a much older man who had been acting as such for months - perhaps years - comes back from leave, and is put into second grade. I would never have agreed to the insertion of the underlined para. which has now made its appearance for the first time, & which quite alters the sense of the G.O.

Mr. Brodie will shortly return from leave, & it is understood that he is to be held to his post.

Mr. Hammett considers that the interpretation to be placed on clause (ii) of G.O. of 17. March 1893, No. 226 Public, is that when the question arises as to which of two officers is the junior the test to be applied is to ascertain which of them has at any previous period acted continuously as Judge or Collector for the longest time.

The Accountant General's interpretation - and the correct interpretation it is submitted - is that the junior officers are those with the least continuous service as Ag. Col. or Judge immediately preceding the date when the question arises as to which are the junior officers.

The case appears to stand as follows:-

Mr. C. M. Mulla assumed charge of the Dist. Court of Gungaim on the 9. January 1893.

66. Mr. G. E. L. Campbell took charge of the Nellore Collectorate on the 7th February 1893.

65. Mr. J. H. Hammett took charge of the Tumacacqui Court on the 8th February 1893.

68. Mr. J. Andrew assumed charge at Salem on the same date 14th March
69. Mr. J. Cumming took charge of the Collectorate of Vellore on the 15th March.

The continuous service of these officers [as defined in clause (ii) of G.O. 7. 17th March 1893, No. 226] has been mentioned against their names.

It will be seen that ^{there} ~~Mr. Hammett~~ ^{were} had not two officers with less continuous service than Mr. Hammett till the 14th March & that he was one of the junior officers for the purposes of the G.O. of 17th March till the 14th March.

Submitted that this was an accident likely to befall any officer and that Mr. Hammett's case does not call for any special treatment.

Attention is directed to para 3 of the Act. Genl's letter

C.S.
1710

10/10/93

Mr. F. H. Hammett's Ag. Second Grade Appl
FOR ORDERS.

Mr. Hammett

73. Mr. E. C. Rawson assumed charge of the Godavari Collectorate on the 23rd Feby 1893.

74. Taking the Ag's interpretation of that clause as correct

Classed as junior officer, because the ~~lowest~~ acting collector on the list may have been acting for a month; whereas, before he went away he had been acting collector for years. This cannot be right. It does not need matter for him to say that he may be junior officer only a short time. The intention of the rule is that the officer with least experience should get the least pay, & therefore we should see that this is done. It is an absurd rule, and I really think that the time has come for us to lay on India that it shall be done away with.

I agree. The Act's General construction is perfectly right.

14/10/93
11 Oct.

C. No. 2446 & 2685

Resubmitted to Hon'ble Members with reference to Mr. the Governor's note

C.S.
27.10

30/10

Mr. the Govt seems to have passed the G.O. of March 17th 1893 No. 226 under a misapprehension as to the meaning & scope of the last para. I think the Act's interpretation of that para. is correct. & that it is not proper to make any change in it. No doubt it may be a little hard on an officer on whom you have to think that he is a junior officer as 2nd class & above while his junior is acting as 1st class. but it can only be for a short time. I am not sure that there are any officers in the present position who will always remain junior to 2nd class. He may be promoted to 2nd class. I don't think it is right to let him be promoted to 1st class. He may be promoted to 1st class. I don't think it is right to let him be promoted to 1st class.

6-9 10/11/93
I have not overlooked the word "continuous". The rule if read as Mr. Hammett reads it would be, "while he works" - & would be fair to all.

Mr. the Govt seems to have overlooked the word "continuous" in the G.O. of March 17th 1893. He has underlined in the note correctly expresses the sense, and does not alter it that I can see. We deliberately altered the former rule, which it seems Mr. the Govt would restore, viz. that the officer whose first appointment as acting collector or judge was later in date was to be the junior officer. The intention & effect of the alteration was fully stated in the notes in G.O. 17th March 1893 No. 226 - especially those numbered 4, 5, 6 & 7 - & the resulting decision is correctly given in para. ii of the G.O. which was passed by Mr. the Governor on the 14th March. The consequence of the alteration was fully foreseen & considered; and I do not agree in the opinion that they were wrong or furnish ground for reconsideration of the order. It would only create further confusion. I would maintain the G.O. above quoted, & rule that the Act's interpretation is correct, or is certainly in the right.

Mr. F. H. Hannett's Secy
Appel

The Hon Sir H Stokes K.C.S.
The Hon Mr. Garton C.B.

Gmt

C. 30/10
R. 3/11
C. 3/11
R. 11/11

Public Department.

C. Nos. 2446 & 2685.

ORDER: 20 Nov 93 A 936.

The Govt. considers that the Account-
-ant General's interpretation of G.O., d/
17-8-93, No. 226 is correct.

I don't w

TO
The Accountant General.
F. H. Hannett Esq. C.S.

Recd 21/11

Spick
21/11

DESPATCHED

(From Order)

157/183

Recd 21/11 LETTER:-

A 937.

Spick
21/11

TO
The Secretary to the Govt. of India,
Home Deptt.

SIR,

80. 776
17.11.90
in file book

W
16 Nov.

call them Appointments. (or Judgeships)
as India does.

With reference to the correspondence
ending with paragraph 2 of your letter
of the 8th August 1890, No. 1543, in
which it was stated that His Excellency
the Governor General - in - Council
regretted his inability to reconsider,
in connection with the subject of the
Provincial Service, the question of the
abolition of the two second grade
Collectorates in the Presidency, I am
directed to urge once more upon the
Government of India the advisability of
withdrawing the orders conveyed in para.
10 of Mr. Mackenzie's letter of the 13th

October

October 1881, No. 1646.

2. I am to refer to the arguments which have been brought forward in *The* ~~correspondence from~~ previous ~~letters for this Govt.~~ on this subject, and to state that a further experience of the working of the order in question has only resulted in conclusively proving to this Govt. that the two appointments are entirely out of place in a service such as the Civil Service of this Presidency which is not personally graded. Their inclusion has moreover been the cause of *great* ~~much~~ difficulty as regards the adjustment of salaries, of much discontent among the civilians of this province. The two salaries of Rs. 1,800 are, as pointed out once before, not attached to any particular districts, and as a result it very often happens that the salary of an officer who is not transferred and ~~whose~~ *whose* work is no way changed is *suddenly* retrenched.

3. In the opinion of H.E. in Council the abolition of the two second grade appointments would materially conduce to more efficient administration in that it would allay the discontent which now exists and the uncertainty in the minds of acting officers

x Pub. No. 1685, d/ 21-11-87, Para.8
.. ... 496, d/ 10- 5-88.

officers as to their emoluments. I am therefore to place the matter before the Govt. of India and to express the earnest hope that ~~it will accede to the~~ wishes of H.E. in Council on this point.

CS. may be acceded to.
14/11.

15/11/93

Submitted to H.E. the Governor
under rule 4 (ii) of those for the
conduct of business

C.S.
15/11

HD
15.7.59