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Sub DEPARTMENT.
G.O., DATED *14th Sep 1894*
No. *680*

INDEXED.

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[Despatch Abstract.]

Statutory Civilian

Come to the — Concern
letter from the Gov^t of India
intimating the Sect of
State's opinion as how
the claims to promotion
of — who elect to
remain in their present
position are to be dealt

1.2.27 ✓

17/2/94/RA
588/RH/84

READ AGAIN ORDER OF GOVERNMENT, DATED
18 No.

EACH PAGE No.

OF 18

FURTHER PAPER, No.

OF 18

ENCLOSURES.

CURRENT No.

STATEMENT WITH DUTY.

ORDER, &C., OF GOVERNMENT—A.

PAPERS KEPT OUT OF FILE FOR DETACH IN ORIGINAL
(not paged).

NUMBER OF COPIES REQUIRED.

- Order complete.
- Letter only.
- Order complete with Letter.

A.B.—

- A = Print in full.
- B = Not to be printed.
- P = Print abstract only.
- Q = Print heading only.
- R = Print, but not for monthly volume.

Gobt. of {1894} Madras. PUBLIC.

Issued

Recd.

Encl.

G.O., 14th Sept. 1894, No. 680.

SEPTEMBER.

Statutory Civilians.

Communicating to the — concerned letter from the Government of India intimating the Secretary of State's opinion as to how the claims to promotion of — who elect to remain in their present position are to be decided.

14TH SEPTEMBER 1894, No. 680, PUBLIC.

GOVERNMENT OF MADRAS.
PUBLIC DEPARTMENT.

READ—again the following papers :—

G.O., dated 24th August 1892, No. 583, Public.

ABSTRACT.—Communicating to Statutory Civilians concerned extracts from letters of the Government of India with request that they will report whether they desire to reconsider their former decisions as to retaining their present positions.

G.O., dated 16th December 1892, No. 877, Public.

Read—the following extract from letter from the Secretary to the Government of India, Home Department (Public), to the Chief Secretary to the Government of Madras, dated Simla, the 10th November 1892, No. 2194 :—

3. The case of Statutory Civilians who elect to remain in their present position will be governed by Rule 2 of the enclosed rules, under which the previous sanction of the Governor-General in Council is required to their appointment to any listed post. As explained in my letter of the 27th May last (paragraph 5), such Statutory Civilians hold appointments outside both the Covenanted and the Provincial Civil Services, and the effect of Rule 2 is to continue in their case the principle of the existing orders regulating their promotion. The sanction of the Government of India will not be required to promotions merely from grade to grade, which do not involve a change in the duties and responsibilities discharged, such as that of an Assistant Collector to be a Head Assistant. These promotions may continue to be made by the local Government of its own motion. The sanction of the Government of India will, however, be required before any promotion, however temporary, of a Statutory Civilian who remains in his present position is made to the office of Collector and District Magistrate, or of District and Sessions Judge, or to any other office, such as that of Sub-Collector and Joint Magistrate or Under Secretary to Government, which is entered as a separate office in the schedule to the Statute 24 and 25 Vict., Cap. 54, or the duties of which differ in character from those of the substantive appointment of the officer whom it is proposed to promote.

It has not been the practice hitherto to refer, for the sanction of the Government of India, mere acting promotions to the grade of Sub-Collector and Joint Magistrate. As, however, these appointments are entered as separate offices in the schedule to the Statute cited above, such sanction will, in future, be necessary under the terms of Rule 2. I am to say that references on the subject of these acting promotions will be regarded as of a purely formal character, but the Government of India are precluded by the requirements of the rule, as sanctioned by the Secretary of State in Council, from dispensing with them.

ENCLOSURES.

Extract from despatch from the Right Honorable Her Majesty's Secretary of State for India, to His Excellency the Most Honorable the Governor-General of India in Council, dated India Office, London, 31st August 1892, No. 85, Public.

My Lord Marquis,—I have considered in Council the letter of your Government, No. 39, dated the 7th of June last, relating to your action in carrying out the instructions of my predecessor on the subject of the recommendations of the Public Service Commission as regards the higher branches of the Judicial and Executive Services in India, and also submitting for sanction the draft of new rules to be prescribed by you under Statute 33 Vict., Cap. 3, section 6.

Public Dept

Read again SO $\frac{583}{24.8.92}$ (P)

Read again SO $\frac{877}{16.12.92}$

(para 3 of India's letter in full
Rule 2 in Notice in P. 4 in full)

para 1 of order

C. No. 2138 (A)

The Govt of India
Home Dept (Public)

Simla

RS

No. 14 - Public
1231

Order

14 Sept 1894, No. 680.
(communicated to the

Statutory Civilians concerned)

C.S.
31.7.

4/3/94

Dated 17th July
Recd 25th 1894
Regd 26th

Encl. 6. S. C. 1st current.

Subject

Regarding the claims to
promotion of the Statutory
Civilians who have elected
to remain in their present
position.

H. C. Manavedan Raja Esq 1
Mud. Raja Khan Esq 1
Mir Shryaat Ali Khan Esq 1
T. M. Swaminatha Aiyar Esq 1
T. Varada Rao Esq 1
P. Rajagopala Chari Esq 1

Copy to Sec. Dept 1 } dated 2/10/94
— Accl. Genl. 3 }

22/7

FROM

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

Offg. Secretary to the Government of India,

No.

14-Public
1231

TO THE SECRETARY
GOVERNMENT OF MADRAS

The Chief Secy. to the Govt. of Madras.

Home Department.
Public.

Simla, the 17 July 1894.

SIR,

IN continuation of paragraph 3 of the letter from this Department, No. 2194, dated the 10th November 1892, in which it was intimated that the case of Statutory Civilians electing to remain in their present position would be governed by rule 2 of the revised rules under Statute 33 Vict., Cap. 3, section 6, published in Home Department Notification, No. 2159, dated 2nd November 1892, which restricts their appointment to such posts in the cadre of the Indian Civil Service as are listed as open to the Provincial Civil Service, I am directed to say that the Secretary of State has now expressed the opinion that the claims of these officers to promotion should not be considered with reference to the list of such posts alone, but with reference to the conditions which were understood to regulate their promotion when they were first appointed to offices in the Indian Civil Service. Accordingly, when a Statutory Civilian attains a position in which, according to his seniority in the gradation list of the Indian Civil Service, his claims to a higher appointment have to be examined, it should be considered whether he is of such proved merit and ability as to justify his promotion to such appointment, whether it is a listed appointment or not, and the provisions of Statute 24 and 25 Vict., Cap. 54, section 3, will be made use of, if necessary, in cases to which it is applicable.

2. I am to request that, with the permission of His Excy. the Secy. in Council, the above decision may be communicated to the Statutory Civilians serving in the Madras Presidency who elect to retain their present position. The decision will make no change at present in the practice of promotion, as the lists, though they do not contain any posts superior to that of District Judge or District Magistrate, already make adequate provision for the reasonable claims of all Statutory Civilians to promotion in the ordinary line for many years to come.

I have the honour to be,

SIR,

Your most obedient Servant,

J. P. Hewett

Offg. Secretary to the Government of India.

the tone of the present letter that the view of the Secy. of State on the point have been withheld from any desire to spare the feelings of the Govt. & it looks as if the G. of I. were passing on the rebuff recd. from the Secy. of State.

It is ~~not~~ proposed to communicate this letter to Statutory Civilians.

In connection with this point please see the notes on G.O. of 14.11.93 No. 1041 in the file re Mr. Rajagopala.

Chari Orders are issued whether his case is to be specially treated.

Mr. Sapat in 1894 in a letter referring to the question of his return to the C. No. 2138 under the ruling in this letter Statutory Civilians will be eligible for app't. to ~~unlisted posts~~ in the posts scheduled under 24 & 25 Vic. Cap. 54, whether listed or not, subject to the provisions of sec 3 of that Statute. The conditions under which these officers were first appointed are those in the notification on page 37 of the book. It where it was stated that they were app't. for employment in H. I. Co. Civil Service in India. As pointed out in para 2 of India's letter this concession is unlikely to come into operation for many years to come.

Statutory Civilians

Hewett

Yes, but I think they are to be told that the matter has been finally decided by our Secy.

W. 11 Aug 94

I don't see why it should be 1/8/94

It has asked whether there is any truth in a story which was current that the S. of C. No. 2138 under the ruling in this letter Statutory Civilians will be eligible for app't. to ~~unlisted posts~~ in the posts scheduled under 24 & 25 Vic. Cap. 54, whether listed or not, subject to the provisions of sec 3 of that Statute. The conditions under which these officers were first appointed are those in the notification on page 37 of the book. It where it was stated that they were app't. for employment in H. I. Co. Civil Service in India. As pointed out in para 2 of India's letter this concession is unlikely to come into operation for many years to come.

No, we could not make out a case which would induce the G. of I. to deal with it exceptionally.

I do not think there is a case. His good service prior to his being appointed to the Statutory Service can hardly be said to be probationary in that particular service.

I think it would be well to draw out a statement showing the members of the Statutory Service what their position really is, in accordance with the instructions.

28/317

24/8/94

Public DEPARTMENT

C. No 2137 + 2138

FOR ORDERS.

Draft orders on the backs of the above two currents are sub. for approval.

C. No 2137 Reading the L. of I. letter by itself the natural conclusion would be that this Govt. had on its own motion raised the question of the standing of statutory civilians for ^{purpose of} promotion. A reference to para 5 of India's letter on page 2 of L.O. of 14 Sept 1893, No. 762/3, shows however that this Govt. was invited to reconsider the question & the L. of I. distinctly stated that it would "have no objection to modifying the recent orders & restoring the previous practice". With those facts before it, it is curious that the L. of I. should allude to "inconsistency" in the concluding sentence of para 2 of its letter. As will be seen from the Home Dep. letter recorded in L.O. of 28.4.94, No 425, the Secy. of State was referred to in the matter. No copy of his despatch has been communicated. The correspondence on this subject has been conducted nor is any allusion made to it in the

Page 386 of book file

+ Vide file of papers re
Mr. Rajagopala Chari

Letter to Govt.

Note for the

Please to draft & get
go into formal

CS
22/8

Government has ^{decided} to await
a reply to this letter before
^{making any} communicating the decision
to the Statutory Civilians.

JH
2/8/94

to 9.

On reading over this letter again &
24 & 25 Vic. which applies to this
question, I think such a reference
as is now proposed is hardly
necessary. It is I think clear
that it means that whenever a
Statutory Civilian has reached
the point in the list when his
claims to become a collector or
Judge have to be considered, there
is nothing to deter his promotion
any more than that of any ordinary
civilian - even if the posts listed
for the Provincial & Statutory service
combined should all be filled.
I therefore think that the instructions
of the G.O. should be issued to
all the members of the ^{Statutory} service.

Circ

JH
11/9/94

W
8 Sep.

JH
13/9

down that the claims of a
Statutory Civilian to advance-
ment depend entirely on the
merit and ability that he
may display. In these cir-
cumstances I am to request
that ^{this post may be understood} you ~~shall be so~~ ^{as}
to inform ~~me~~ whether it is
to be understood that the
Statutory Civilians ^{who that remain not to find} ~~in question~~ ^{the Post denied}
should, in future, ordinarily
receive promotion to offices
below the grade of collector
and Judge without reference
to their merit and ability.

3. The effect of the ruling
in your letter under reply
is, so far as this Government
sees, to ~~transfer all offi-~~
~~cers in the cadre of the Indian~~
~~Civil Service to Statutory~~
~~Civilian and to render~~
~~them eligible for appoint-~~
~~ment as members of the~~
~~Revenue of Province, Secretary~~
~~to Government.~~

4. As the matter is
not free from doubt the
government

remove the restriction hitherto
existing under which Statutory
Civilians can be appointed to
listed posts alone. Thus in this
Presidency there are two listed
Sub. Collectorates & if at any future
time it should happen that these
two appointments were occupied by Statutory
Civilians & members of the Prov.
service & it should come to the
turn of a fitly accomplished Statutory
Civilian for promotion to such a
post, according to his seniority in
the gradation list of the P.C.B., he
could, it is understood, be promoted
but the app. could be made under
sec. 3. of 24 & 25 Vic, Cap 57, next
under the rules framed under 33
Vic. Cap 3. Sec 6. I am to ask
if this conclusion is correct.

Page 37 of book file

been appointed under the rules contained in Home Dep^t. Notification of the 22nd August 1877 N^o. 1534, the Conditions, which were understood to regulate their promotion when first appointed to offices in the Indian Civil Service, were the same as those which regulate the promotion of members of that Service. They ^{in time} ~~principles~~ ~~under which the latter are~~ ^{are} stated in para 18 of Mr Lyalls' letter of the 14th Feb^r 1890 N^o. 300. - vide also para 20 of my letter dated 4th June 1890, N^o. 401 - and ^{as} that mere length of Service gives no claim to promotion above the rank of Sub Collector and that no officer ^{shall} ~~should~~ be appointed to the charge of a district or to be a District and Sessions Judge who has not, in the course of his previous Service, given distinct evidence that he is fit for such office. In para 5 of Home Dep^t. letter dated 27th May 1892, N^o. 1535 Public, the Government of India laid down

Pages ¹²⁵⁺¹²⁶ ~~125~~ of book file

Page ¹⁶¹ ~~160~~ of book file

Page ²² ~~255~~ of book file

civilian attains a position in which, according to his seniority in the gradation list of the Indian Civil Service, his claims to a higher appointment have been examined, it should be considered whether he is of such proved merit and ability as to justify his promotion to such appointment, whether it is a listed appointment or not, and state that the provisions of Statute 24 and 25 Vict. Cap. 54, Section 3, will be made use of, if necessary, in cases to which it is applicable. This decision, it is added, will make no change at present in the practice of promotion, as the lists, though they do not contain any posts superior to that of District Judge or District Magistrate, already make adequate provision for the reasonable claims of all statutory civilians to promotion in the ordinary line for many years to come.

2. H. E. the Governor in Council understands that those statutory civilians having been

Public Department

C. No. 2138

Order.

The following letter will be
despatched.

Letter to the Secretary to the
Government of India, Home Dep^t.

Sir,

I am directed to acknow-
- ledge the receipt of your
of July/- letter of the 17th ^{inst} ~~instant~~, N^o 14-1231
Public, in which it is intimated
that the Secretary of State has
now decided that the claims
to promotion of Statutory Civi-
- lians who elect to remain in
their present position shall
not be considered with
reference to the listed Provincial
Service posts ^{alone} (but with reference
to the conditions which were
understood to regulate their
promotion when they were
first appointed to offices in
the Indian Civil Service. The
Government of India accordingly
direct that when a Statutory
Civilian

FROM CIRCULATION
WITH REMARKS.

GOVERNMENT HOUSE,
OOTACAMUND.

8 Sep. 1899

My dear Sir,
I return the draft file.

as the Govt will print out, no reference

seems necessary but please note.

Yours sincerely

J. M. S.

Secretary