

Public (1897) Department.

ORDINARY MS.

G.O., No. 1327

DATED 7-10-97

[Despatch Abstract.]

Recording letter from the G. of I forwarding
Copy of Correspondence with the Secy. of
State regarding the question whether a
member of the Indian Civil Service
can claim the right to retire whether
his services can be spared or not
at any time after the completion of the
prescribed period of service & residence
in India

Public (1897) Department.

CURRENT No.

BACK PAPERS.

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

FURTHER PAPERS.

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

From
Order W.P. 132787th Oct-97
P. 101

From
The Govt of India
(Home)

Recorded

No. 665

Contd.
in 1897

8-7/97

Copy to Ad. Genl.

Dated 13th Sept
Received 22. " } 97
Registered 22. "

Enclosures 2

Spare copies 7 of c & 7 of Incls.

Official

Special Incls. & send me copy of Ind. in letter & no. & date of order

Copy given to
the
AS. 7/10/97

Contd.

SUBJECT.

Forwarding copy of correspondence
and the Govt of India regarding the
question whether a member of the ICS
can claim the right to retire, whether
his services can be spared or not, at any
time after the completion of the prescribed
period of service in India.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

No. 44 OF 1894.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

PUBLIC.

TO THE RIGHT HONOURABLE H. H. FOWLER,

Her Majesty's Secretary of State for India.

Simla, the 28th August 1894.

SIR,

We have the honour to report the following facts for your consideration and orders. A case has recently occurred in which a member of the Civil Service of India, after completing the required period of service and residence in India which qualify for a retiring annuity, applied for permission to resign the service, with effect from a certain date in April last. But the Local Government concerned refused to support the application, on the ground that the notice given by the applicant of his intention to resign (a little short of two months) was not sufficient to allow of proper arrangements being made to relieve him, while the notice was given so late that all dispositions had already been made to meet expected retirements and furloughs to be granted during the hot weather. It was therefore considered that the applicant should not be permitted to retire until the next cold weather.

2. In the case referred to, the officer concerned has since withdrawn his application for permission to resign, and we have consequently passed no orders on it. This case has, however, raised an important issue as to the right of an officer to retire, whether his services can be spared or not, at any time after completion of the prescribed period of service and residence in India. We have been unable to trace a precedent in which a member of the Indian Civil Service, who has applied for permission to resign, has been refused such permission. Under the existing conditions of service in India it would seem that an Indian Civilian who entered the service before the enactment of 37 Vict., Cap. 12, and has been twenty-five years in the service and has rendered twenty-one years' active service is entitled to retire on the production of a certificate declaring that there are no demands against him in the public accounts, and Government cannot, it is understood, retain him on duty against his will after completion of the prescribed term of service. The Government might, indeed, refuse the formal permission to retire; but we understand that, should such an officer nevertheless resign the service (an option which he has at all times after his appointment), the refusal of permission to retire would not prejudice his legal claim to his annuity, supposing him to be otherwise entitled to it.

3. The position of officers who entered the service after the enactment of 37 Vict., Cap. 12, would seem to be different, inasmuch as they would seem to have no statutory claim to an annuity after 25 years' service and 21 years' active service. But we think that it might be advantageous, if it were made quite clear in the covenants of future Civil Servants, that they may not leave the duties on which they may be employed without the sanction of Government, even though they have otherwise become entitled to retiring annuity under the rules in force.

This obligation is indeed implied in Article 620 of the Civil Service Regulations, but it would seem advisable to make it also clear in the covenant. If this were done the prescription of a sufficient period of notice before resignation would be a matter for executive arrangement.

We have the honour to be,

SIR,

Your most obedient, humble Servants,

ELGIN.

G. S. WHITE.

A. E. MILLER.

H. BRACKENBURY.

C. B. PRITCHARD.

J. WESTLAND.

A. P. MACDONNELL.

No.

Letter from the Government of the North-Western Provinces and Oudh, No. 526-C., dated the 13th March 1894, and enclosure.

Letter from the Government of the North-Western Provinces and Oudh, No. 976, dated the 27th March 1894, and enclosure.

Letter from the Government of the North-Western Provinces and Oudh, No. 1259, dated the 14th April 1894.

COPY, with the papers noted in the margin, forwarded to the Department of Finance and Commerce for information.—

Original papers returned.

By order,

L. M. THORNTON,

Offg. Depy. Secy. to the Govt. of India.

HOME DEPARTMENT,
PUBLIC;
Simla, the August 1894.

No.

1894.

GOVERNMENT OF INDIA.
HOME DEPARTMENT.

PUBLIC.

NO. 44, DATED SIMLA, THE 28TH AUGUST 1894.

(Copy.)

LETTER TO HER MAJESTY'S SECRETARY OF
STATE FOR INDIA.

SUBJECT.

Suggests that it be made clear in the covenants to be executed in future by members of the Civil Service of India that they may not leave the duties on which they are employed without the sanction of Government, even though they have become entitled to pension.

No. 100 (Public), dated India Office, London, the 18th October 1894.

From—The RIGHT HONOURABLE H. H. FOWLER, Her Majesty's Secretary of State for India,

To—His Excellency the Right Honourable the Governor General of India in Council.

I HAVE considered in Council the letter from your Government, No. 44 (Public), dated 28th August 1894, recommending that the Covenants to be executed by gentlemen hereafter entering the Indian Civil Service may be so amended as to make it quite clear that they may not leave their duties without the sanction of Government.

2. It is provided in the preamble to the present form of Covenant that the service is "to continue during the pleasure of Her Majesty . . . but with liberty for the Covenantor to resign the said service with the previous permission of the Secretary of State in Council or of the Governor General in Council" or "Governor in Council" as the case may be. And the first engagement into which the Covenantor enters is that while he shall be employed in the said service, or, in other words, during the pleasure of Her Majesty or until the service has been properly terminated by resignation with the above-mentioned permission, "he will faithfully . . . do all such things as shall be lawfully committed to his charge." It appears to me that these stipulations sufficiently meet the object which Your Excellency's Government have in view, and that no modification of the present form of Covenant is required.

3. I would further remind Your Excellency that, under Article 620 of the Civil Service Regulations, an Indian Civilian who has completed the requisite service is not entitled to his annuity until his resignation has been accepted. I believe that the service in such cases is always brought to a close by an official notification that the Civil Servant is permitted to resign, and this is in strict accordance with the formal Covenant.

I have, etc.,
H. H. FOWLER

No. *645*



FROM

L. M. THORNTON, Esq.,
Deputy Secretary to the Government of India,

TO

The Chief Secy. to the Govt. of Madras.

Home Department.
Establishments.

Simla, the 13th September 1897.

SIR,

I AM directed to forward for *the information of His Excellency the Governor in Council*

* Despatch to the Secretary of State, No. 44
(Public), dated the 28th August 1894.

Despatch from the Secretary of State, No. 100
(Public), dated the 18th October 1894.

a copy of a correspondence* with Her Majesty's Secretary of State for India regarding the question whether a member of the Indian Civil Service can claim the right to retire, whether his services

can be spared or not, at any time after completion of the prescribed period of service and residence in India.

I have the honour to be,

SIR,

Your most obedient Servant,

L. M. Thornton

Deputy Secretary to the Government of India.

When given for copying _____
When copied _____
When examined _____
When signed _____

189

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

DATED

PRESENT No. _____

ENCLOSURES TO O. No. _____

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

APRIS NOT FILED UP, BRING MEANT FOR DESPATCH
IN ORIGINAL.

N.B. -

- A = Copy in full.
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