

Extract from the number of

File No. 50/27/5.
1927

Collection No. 2

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Public Service
Commission
Service Branch

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Pros. Nos.
Serial

Keep
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Subject

Procedure in making appointments to
listed posts in the G.C.S.

Previous References.

File No. 13 of 1926 Exams

Keep

Received in Record
Room for retention

18 MAY 1990

Late References.

- F. 88/36-S
- F. 166/36-S
- F. 214/38-S
- F. 97/37-S
- F. 67/38-S
- F. 285/39-S
- F. 2/26/40-S
- F. 2/71/40-S
- F. 2/39/41-S
- F. 2/14/42-S
- F. 2/25/45-S
- F. 2/74/45-S
- F. 2/98/46-S
- F. 2/33/47-S

Section.

File No. 2 / 27

Heading.

Serial No.

NOTES.

Pres.

19 . Nos.

DEPT. BRANCH.

Subject.

Procedure in making appointments to "listed" posts in the I.C.S.

Letter from the Home Dept., no F407/20-886, dated the 29th July 1927. Notes and Orders.

Submitted.

TCC
1.2.27
W.H.P.
1.2.27
Lucy

M. L. King
7.2.27

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Page No.

1
St. John
5/2/27

I think the Commission have already felt the difficulties they are under when making recruitment by promotion under rule 6 of the Functions Rules. Personally, I have always felt ^{Conundrum} ~~a great~~ doubt as to the desirability of bringing in the Commission into questions of promotion, because the merits of individual officers must be better known to local Governments than to anybody else. However, all that the Commission can do is to satisfy themselves in respect to each candidate nominated for promotion, that his

qualifications are sufficient and his record proves him to be suitable for the service to which he is being promoted, and possibly also that there are not others in the service to which he belongs more suitable than he for promotion.

These difficulties will be equally strong in the case of appointments to listed posts from the Bar. We are not, however, concerned with the policy under which this duty is to be placed on the Public Service Commission. All that we are asked to do is to advise on procedure and to submit a draft rule.

2. Nevertheless a question of policy arises. I have underlined above what appears to me the most doubtful point. All that the Functions rules impose upon us in a case of promotion is the duty of satisfying ourselves that a man's qualifications are sufficient and his record proves him adequate, vide rule 6(ii), though the addition of 6(iii) seems to imply something more. Personally I think that this was intentional, and that we are not concerned with enquiring whether B or C is better than A except in a case where B & C's names have been submitted to us as well as A's. I think in replying to this letter we should draw attention to this point and say that the above is how we interpret our functions and that we do not suggest any alteration in principle.

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3. As far as procedure under the present reference is concerned, the first point to be settled is whether a local Government should consult us direct or through the Government of India. This is a point which may well be left to the Government of India to decide. I am inclined to think, however, that if we are to be only an advisory body to local Governments, who would thus be in a position to reject our advice, it should be laid down that their original reference to us and our final recommendation should be made through the Government of India. This would not debar intermediate correspondence direct with local Governments on points on which we might want further information.

4. I think that local Governments should be requested, ^(i.e. the rule under 2.55) in making any reference under these Rules to us, to state in the first place, in all cases whether of promotion from the Provincial Civil Service, or of appointment from the Bar, the number of offices declared under rules 1 and 4 of the Rules; and in the case of promotions from the Provincial Civil Service, the particulars which we have already suggested in the case of Central Services in our letter of the 22nd of November 1926. In the case of members of the Bar, it seems to me that it will be sufficient if they give us the following details in respect of any person whom they wish to appoint:-

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(See Envelope I
p. 4 of the file)

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up

- (a) age,
- (b) educational qualifications,
- (c) qualifications at the Bar, including particulars of the court or courts in which he has practised,
- (d) observations of the Chief Justice, or if he has not practised mainly in the High Court, of the Senior Judge of the Court in which he has practised, on the proposed appointment, and,
- (e) any remarks which the local Governments might desire to make.

5. We are asked to forward a draft rule under section 99 of the Government of India Act. I do not profess to be competent to draft a rule in legal form, but it seems to me that what is required is simply an addition to the Rules published in the Home Department's notification of the 17th of May 1923, to some such effect as the following:-

"No appointment other than an officiating appointment or an appointment made under rule 6 of these Rules may be made by a local Government under rules 2, 3 or 5, except in consultation with the Public Service Commission".

or, perhaps better, ^a rule might be framed something on the lines of rule 6 of the Functions Rules.

Whatever the draft, ^{it} ~~I~~ should, I think, leave the final decision to the local Governments; that is to say, the local Governments will not be bound to accept the Public Service Commission's advice. I think this is the correct conclusion, inasmuch as it is in conformity with

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the whole position underlying the Functions Rules, namely, that the Public Service Commission has no final authority at all, but is merely an advisory body.

Hartog
V. Acharya
Raza Ali

AM

9. 2. '27

Circular -

I agree generally with the Secy, but I am doubtful about the wording of the rule he proposes on p. 4 of his note at the place I have marked A. I do not suggest a draft; but would it not be consistent with the procedure prescribed under Functions Rule (6) that a I prefer his second alternative of a rule on the lines of Rule 6 of the Functions Rules. I should like the matter, which is important, to be discussed by the Commission

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1 officer

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P.P. 10-2-27

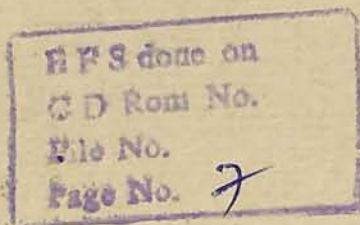
Reading the letter from the Home Department and the extract paragraph 5 of the H.D's despatch No 10 of 1926 together, it seems to me that the clear intention of the Government

of India is that we should discharge in
respect of appointments made by local
Governments under H.D.'s notification
of the 30th March 1922 as amended
~~by~~ on 14th May 1923 (except ^{officiating}
and temporary appointments), ^{precisely} the
same duties as we have discharge
in respect of all-India services other
than the I.C.S. and the Central
Services, class I under Rule 6 of
our Functions Rules. Our rights
and duties would be precisely
the same. What exactly these
are, particularly in respect of the
points mentioned by Mr Key, ~~is~~
is a matter for discussion in
Commonithin.

2. As regards the method of carrying
out the Government of India's intention
they want us to submit a draft
rule under 599. A draft such as
that prepared by Mr Key would,
I think, be suitable. It seems

necessary also to amend Rule 6 of
our Functions Rules ^{(to bring it} in conformity
with the new rule proposed to be
made under S99. I think the
omission of the words within brackets
in the 3rd ~~sentence~~ line of the Rule
and the addition of the words
"of the Local Government as the
case may be" after the words
"the Governor-General in Council"
in clause (i) are indicated

T.V.
11.2.27



We can give effect to the policy stated in
the Home Department's letter dated the 29th January 1927
either -

- (a) by amending Rule 6 of the Public Service Commission (Functions) Rules as suggested by Sir T. Vijayaraghava Acharya, or
- (b) by amending Rules 2, 3 and 5 of the rules made by the Governor-General in Council with the sanction of the Secretary of State in Council, under Section 99 of the Government of India Act, and published

in

Yed Raja Ali

in Notification No.F.-438-Lsts., dated the 30th March 1922 as amended by Notification No.F.-563/22-Lsts., dated the 17th May 1923, or

(c) by preparing a draft rule to be added to the rules referred to in (b) as suggested by Mr. Ley.

(a) The difficulty in amending Rule 6 of the Functions Rules on the lines suggested by Sir T. Vijayaraghava Acharya would be that the rule is confined to recruitment by promotion, whereas in the case of 'listed' posts we have to make provision also for the appointment of members of the Bar. If we decide to amend this rule it would be necessary to add the words "or by direct appointment" after the word "promotion" in the first line of the Rule. I do not think this course can be called satisfactory from the drafting point of view. Further we have been definitely asked by the Home Department to suggest a draft rule under Section 99 of the Government of India Act.

(b) We can achieve the object in view by adding the words "in consultation with the Public Service Commission" to Rules 2, 3 and 5 after the words "the Local Government may" in the second line of each of these rules. The main advantage of this alteration would be to avoid adding a rule at the end of the rules whereas

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the disadvantage is that instead of dealing with the whole question in one place it would be necessary to alter three rules.

(c) The draft rule suggested by Mr. Ley seems to me to meet the requirements of the case. The word used in the draft rule is "appointment" which, I take it, includes the promotion of a member of the Provincial Civil Service to a 'listed' post.

I am inclined to recommend to the Home Department either suggestion (b) or (c).

Raza Ali

23. 2. 1927.

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(AR)

Chairman

W.H.F.
23/2

I was consulted on this matter somewhere about July 1926 and I suggested that it should be dealt with by an amendment of the rules under Section 99 of the Government of India Act and not by an alteration of the Functions Rules. The main reason for that suggestion was that ^{at} ~~of~~ that date it was a matter of the greatest urgency to get the Functions Rules established and I foresaw that, if we were ^{then} ~~again~~ involved in the discussion of this question, the Commission would meet

10

without having any functions rules at all.

I am now indisposed to alter the Functions Rules unless it is absolutely necessary. I think our right line in that matter is to accumulate points which will ^{need} ~~mean~~ consideration when a revision takes place, ~~and that when~~ ^{with the view to getting a complete} ~~that occurs we shall get a substantial revision and not~~ a piecemeal revision. ^{when his proposition comes} It is certainly far more convenient to local Governments to be told what they have to do in rules which are ~~exceptionally~~ applicable to themselves rather than in our Functions Rules which do not normally come under their consideration.

As a mere matter of drafting, I am attracted by Mr. Raza Ali's proposal that the words "in consultation with the Public Service Commission" should be inserted in rules 2, 3 and 5 after the words "the local Government may", but I should prefer the words "after consultation" rather than the words "in consultation", and perhaps 'consulting' would be better than 'consultation'. But this formula would not cover the case of an officiating appointment to which Mr. Ley refers in his draft paragraph and I suggest the following draft:-

"A local Government shall consult the Public Service Commission before making any appointment (other than an officiating appointment) under rules 2, 3 and 5"

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On other points, I think, there is much to be said both in favour of passing communications through the Government of India and against this course and that might be discussed at the Commission. While I agree with the limited view of our functions which Mr. Ley suggests, I should prefer at present not to commit the Commission to any view as to whether the functions should or should not be extended, since later experience may lead us to form a more definite opinion upon this matter.

A

WRB

24. 2. '27

Mr. Wise
(For agenda at the next meeting)

For discussion on 1/3/27.
Placed on table in
Committee room 1/26/27

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A draft is circulated

Mr. Ley
Sir P. ... 7. 3. 27. (See my notes on yellow paper)
Dewan Bahadur ... 4. 3. 27
Mr. Raza Ali. I agree to the draft.
RA 7. 3. 27.
Chairman ... 6/13/27
[Signature]

No. 2 Letter to the Secy, Home Dept., no. F2/27-E, 8] 14. 9th March 1927

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the 1/3/27

Letter to the Secy., Home Dept., New Delhi, No. F.2/27-E, 29.3.27

Extract from the minutes of a meeting of the Public Service Commission held at Metcalfe House on the 1/3/27.

2. Considered a reference from the Govt. of India regarding procedure in making appointments to listed posts in the I.C.S.

Resolved that the following draft rule be recommended to the Govt. of India as an amendment to the rules under section 99(2) of the Govt. of India Act made by Notification No. F.430 Ests. dated the 30th March 1922 :-

"The local government shall consult the Public Service Commission before making any appointment (other than an off. appointment) under rules 2, 3 & 5."

Resolved further that the Govt. of India be informed that the Commission contemplate following the same procedure in dealing with appointments to listed posts in the I.C.S. as is followed in dealing with promotions under rule 6 of the Functions Rules; and also suggest that the final decision of the Commission should be sent to local governments through the Govt. of India in order that the latter may be kept informed of what is being done.

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(13)

pac.

D.374-S.

l. No. 3, 1/15-23/0.

Encl. from the Home Dept. no. F.407/26 dtd. 27/7/27 - Procedure in making appointments to listed posts in the Indian Civil Service.

For information. Chairman & members may see.

He. 11/7/27. Musht. 11-7-27
Secy.

Circular
11/7

Circulated for information.

Chairman

Mr. A. H. Ley

Syed Raza Ali

Sir Philip Hartog

Sir T. V. Acharya

Secretary

auth
RA 12/7
13-7-27.
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W.H.A.
15/7

Dated MPS 11/7

P. S. C. 1.

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A copy of the pac. & its enclosures has been prepared for Sir Philip Hartog & is placed below.

MPS 15/7

Musht. 15-7-27

No. F.407/26-Ests.

Government of India.

Home Department.

From

J. D. V. Hodge, Esquire, I.C.S.,

Deputy Secretary to the Government of India.

To

IC SERVICE COMMISSION, The Secretary,

Public Service Commission.

New Delhi, the 27th January 1927.

Subject:- Procedure in making appointments to 'listed' posts in the Indian Civil Service.

Sir,

pa Suifa

Section 99 of the Government of India Act and the rules made thereunder provide that local Governments may appoint persons other than members of the Indian Civil Service to posts borne on the cadre of that service. At present local Governments have full discretion in selecting such persons who fulfil the requirements of the rules; but these persons, when substantively appointed, while not becoming members of the Indian Civil Service, secure all-India service status by reason of rule II(b) of the rules for the classification of the services published with the Home Department notification No. F.472-II-23 (Pub), dated the 21st June 1924, and it is expected that they will continue to enjoy this status under the Classification, Control and Appeal Rules to be made by the Secretary of State in supersession of the existing rules. The Public Service Commission are charged with the duty of advising Government in respect of candidates for promotion to all-India services (vide rule 6 of the Public Service Commission (Functions) Rules), and it is considered desirable

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desirable that they should discharge similar functions in respect of appointments to 'listed' posts in the Indian Civil Service other than officiating appointments and appointments under Rule 6 of the existing rules under section 99(2) of the Government of India Act.

2. In view of the provisions of this section no authority other than a local Government is empowered to make these appointments, but the Government of India are of opinion that local Governments should secure the advice of the Public Service Commission before doing so. I am accordingly to ask for the views of the Commission as to the procedure to be adopted to attain this object, and for a draft rule under section 99 of the Government of India Act to give effect to them.

3. A copy of the relevant papers is enclosed.

I have the honour to be,

Sir,

Your most obedient Servant,

W. J. George

Deputy Secretary to the Government of India.

29/1

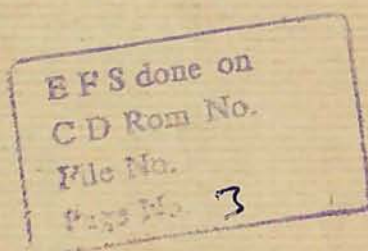
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ENCLOSURES.

Cn p. 4 upa
1. Home Department Notification No. F.438-Ests., dated the 30th March 1922 as amended by Home Department Notification No. F.563/22-Ests., dated the 17th May 1923.

Cn p. 5 upa
2. Home Department Notification No. F.472-II-23 (Public) dated the 21st June 1924.

Cn p. 10 upa
3. Extract paragraph 5 from Home Department despatch No. 10(Ests.), dated the 12th August 1926.



After rule 5, of the said rules the following rule shall be inserted, ~~xxx~~ namely :-

6. The local Government shall consult the Public Service Commission before making any appointment (other than an officiating appointment) under rule 2, rule 3 or rule 5.

Rules 6, 7 and 8 of the said rules shall be re-numbered 7, 8 and 9 respectively.

(H.D. Notfn. F. 407/26-Ests, 7.7.27)

HOME DEPARTMENT.

Notification No. F-438-Ests., dated the 30th March 1922, as amended by Notification No. F-563/22-Ests., dated the 17th ^{May} July 1923.

In exercise of the power conferred by sub-section (2) of section 99 of the Government of India Act, and in supersession of the rules published in the Home Department Notification No. 598-Establishments, dated the 21st June 1918, the Governor General in Council is pleased to prescribe the following rules, which have been sanctioned by the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the Council of India:—

1. With the previous sanction of the Governor General in Council and of the Secretary of State in Council the local Government may, by notification in the official Gazette, declare the number of superior executive and judicial offices, being offices ordinarily filled from amongst the members of the Indian Civil Service, to which, subject to the provisions of sub-section (1) of section 99 of the Government of India Act, persons not being members of the Indian Civil Service may be appointed.

2. Within the limit of number declared under rule 1 the local Government may appoint:—

(i) to a superior executive office a member of the provincial civil service subordinate to the local Government;

(ii) to a superior judicial office a member of the provincial civil service subordinate to the local Government, or a person who at the time of the appointment is—

- (a) a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland; or
- (b) a vakil, pleader, advocate or attorney of a high court in India; or
- (c) a pleader or advocate of a chief court or of a judicial commissioner's court; or
- (d) a pleader of a district court; and in respect of such qualification is of not less than five years' standing.

3. Notwithstanding anything contained in rule 2, the local Government may, within the limit of number declared under rule 1, appoint to a

superior executive or judicial office any person not having the qualifications prescribed for such office by rule 2.

Provided that the number of persons so appointed shall not amount to more than 15 per cent. of the total number of superior offices declared under rule 1.

4. The local Government, may, by notification in the local official gazette, declare the number of inferior offices, being offices required under the provisions of section 98 of the Government of India Act to be filled from amongst the members of the Indian Civil Service, to which, subject to the provisions of sub-section (1) of section 99 of the said Act, persons not being members of the Indian Civil Service may be appointed.

5. Within the limit of number declared under rule 4, the local Government may appoint to an inferior executive office any person having the qualifications prescribed by rule 2 for appointment to a superior executive office, and to an inferior judicial office any person having the qualifications prescribed by rule 2 for appointment to a superior judicial office.

6. In addition to appointments made under the foregoing rules whenever the exigencies of the public service so require, the local Government may, subject to the provisions of sub-section (1) of section 99 of the Government of India Act, appoint for a period not exceeding twelve months, any person not being a member of the Indian Civil Service to any office ordinarily filled from amongst the members of the Indian Civil Service. The Secretary of State for India in Council may, however, sanction the continuance of any such appointment for such period as he may fix, having regard to the exigencies of the public service.

7. The local Government may declare any person appointed under these rules to be appointed on probation only, and may prescribe the terms and conditions of such probation.

8. The local Government may at any time suspend and remove any person whom it has appointed to any office under these rules.

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Endorse No II

HOME DEPARTMENT

NOTIFICATION.

PUBLIC.

Simla, the 21st June, 1924.

No. F.-472-II-23.—(As amended by Notification, No. F.-472-II-23-Public, dated the 17th July 1924.) The following rules made by the Secretary of State in Council under sub-section (2) of Section 96B of the Government of India Act which apply only to Governors' provinces are published for general information. Rules XVI to XXIX and the entry in the Schedule of Provincial Services relating to Burma have effect from the 21st June 1924. The remaining rules have been in operation with effect from varying dates since the 22nd December 1920.

Classification of Officers under Administrative Control of local Governments.

I. Officers under the administrative control of local Governments, other than officers employed on the administration of central subjects and appointed by the Secretary of State or the Government of India, shall be classified in the following divisions, namely :—

- (1) the all-India Services,
- (2) the Provincial Services,
- (3) the Subordinate Services,
- (4) officers holding special posts.

Definition of all-India Services.

II. The all-India Services shall consist of—

(a) all officers serving under local Governments who are members of any of the following services—

- (1) the Indian Civil Service,
- (2) the Indian Police Service,
- (3) the Indian Forest Service,
- (4) the Indian Educational Service,
- (5) the Indian Agricultural Service,
- (6) the Indian Service of Engineers,
- (7) the Indian Veterinary Service,
- (8) the Indian Forest Engineering Service,
- (9) officers of the Indian Medical Service in civil employ,

and any other service declared by the Secretary of State in Council to be an all-India Service ;

- (b) military officers and other officers holding posts borne on the provincial cadres of the above services.

Definition of Provincial Services.

III. (1) The provincial services shall consist of the services shown in the schedule to these rules, and any other service declared by the local Government to be a provincial service.

(2) The services shown in the schedule shall include all appointments at present included in these services, and any appointments which a local Government may add thereto :

Provided that if any service not included in the schedule to these rules is declared to be a provincial

service, or if any appointment of a kind or class not at present included in a provincial service is added thereto, such declaration or addition shall be without prejudice to the rights and prospects of members of provincial services affected who were appointed before these rules were made.

Definition of Subordinate Services.

IV. The subordinate services shall consist of all minor administrative, executive and ministerial posts to which appointments are made by the local Government or by an authority subordinate to the local Government.

Special Posts.

V. Special posts shall include all posts of a special or technical character, not included in an all-India or provincial service, to which appointments are made by the local Government or by any other authority on behalf of the local Government and which are declared by the local Government to be special posts.

Appointments to all-India Services.

VI. All first appointments to an all-India service, other than appointments made by promotion to such service of officers belonging to some other service or of members of the bar appointed to posts ordinarily held by members of the Indian Civil Service, shall be made by the Secretary of State in Council.

VII. Save as provided in the rules or orders regulating the recruitment of the all-India services, no person may be appointed without the previous sanction of the Secretary of State in Council to any post borne on the provincial cadre of such service except a person who is either a member of such service or is already holding a post borne on the cadre of such service :

Provided that the local Government may appoint a member of the Indian Civil Service to the post of Inspector-General of Police or to the post of Director of Agriculture.

Promotion of Officers of all-India Services.

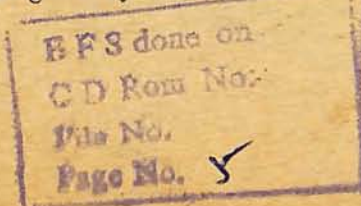
VIII. The local Government has authority to promote officers of an all-India service to any post borne on the provincial cadre of such service :

Provided that the prior approval of the Governor General in Council is required to—

- (1) the appointment of officers with less than 25 or 18 years' service respectively to the posts of Chief and Superintending Engineers in the province of Assam, and
- (2) appointments except in the provinces of Madras and Bombay to the posts of—
 - (a) Chief Conservator of Forests, and
 - (b) Conservators of Forests.

Transfer of Officers of all-India Services.

IX. The power to transfer officers of an all-India service from any one post to any other post borne on the cadre of such service, or from any one part of the province to any other part, is vested in the local Government, but may be delegated by the local Government, subject to



such conditions as it may prescribe, to any authority subordinate to it, or in the case of officers holding judicial posts, to a High Court or a Chief Court or the Court of a Judicial Commissioner.

Authority of local Government over Officers of all-India Services.

X. A local Government may for good and sufficient reasons—

- (1) censure,
- (2) reduce to a lower post,
- (3) withhold promotion from, or
- (4) suspend from his office

any officer of an all-India service :

Provided that no head of a department appointed with the approval of the Governor General in Council shall be reduced to any lower post without the sanction of the Governor General in Council.

Military Officers in Civil Employ.

XI. A military officer may not be reverted from his civil employment except under the orders of the Governor General in Council.

Special Contracts.

XII. The sanction of the Secretary of State in Council is required to any terms in a special contract, by which any right, privilege or concession not admissible under these rules is secured to an officer.

Authority of local Government over officers of Provincial and Subordinate Services, and Officers holding Special Appointments.

XIII. Without prejudice to the provisions of any law for the time being in force, the local Government may for good and sufficient reasons—

- (1) censure,
- (2) withhold promotion from,
- (3) reduce to a lower post,
- (4) suspend,
- (5) remove, or
- (6) dismiss

any officer holding a post in a provincial or subordinate service or a special appointment.

Procedure in cases of Dismissal, Removal or Reduction.

XIV. Without prejudice to the provisions of the Public Servants Inquiries Act, 1850, in all cases in which the dismissal, removal or reduction of any officer is ordered, the order shall, except when it is based on facts or conclusions established at a judicial trial, or when the officer concerned has absconded with the accusation hanging over him, be preceded by a properly recorded departmental enquiry. At such an enquiry a definite charge in writing shall be framed in respect of each offence and explained to the accused, the evidence in support of it and any evidence which he may adduce in his defence shall be recorded in his presence and his defence shall be taken down in writing. Each of the charges framed shall be discussed and a finding shall be recorded on each charge.

Delegation.

XV. A local Government may delegate to any subordinate authority, subject to such conditions if any, as it may prescribe, any of the powers conferred by rule XIII, in regard to officers of the subordinate services :

Provided that every such officer on whom any punishment is inflicted shall be entitled to prefer at least one appeal against such order to such authority as the local Government may prescribe.

Appeals.

XVI.—Every officer against whom an order may be passed under Rules X, XIII and XV, and who thinks himself wronged thereby shall be entitled to prefer at least one appeal against such order.

XVII.—Every officer being a member of an all-India service against whom an order may be passed under Rule X and who thinks himself wronged thereby may appeal to the Governor General in Council against such order, and if his appeal relates to an order such as is referred to in subheads (2), (3) and (4) of that rule and is rejected by the Governor General in Council may appeal to the Secretary of State in Council.

XVIII.—Every officer being a member of a provincial service, or holding a special post as defined in Rule V, against whom an order may be passed under Rule XIII and who thinks himself wronged thereby may appeal to the Governor :

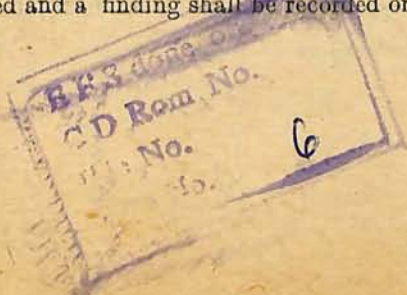
Provided that any officer to whom this rule applies, and who was appointed by the Secretary of State in Council before the commencement of the Government of India Act, 1919, may appeal against any order passed on appeal by the Governor under this rule to the Governor General in Council, and thereafter to the Secretary of State in Council, if his salary is not less than Rs. 500 a month :

Provided further that a further appeal under this rule shall lie to the Governor General from any Deputy Collector to whom, in virtue of section 4 of the Repealing and Amending Act, 1914, the provisions of section 25 of Bengal Regulation IX of 1833 apply.

XIX.—Every officer being a member of a subordinate service against whom an order may be passed under Rule XIII by the local Government, or under Rule XV by the subordinate authority to whom the powers conferred under Rule XIII have been delegated and who thinks himself wronged thereby shall have the right of appeal to such authority as the local Government may by rule prescribe.

XX.—No appeal shall lie against—

- (a) the discharge of a person appointed by an authority in India on probation, if his discharge is ordered before the termination of his probation,
- (b) the dismissal or removal of a person appointed by an authority in India to hold a temporary appointment.



XXI.—Every Government servant desiring to prefer an appeal shall do so separately.

XXII.—Every appeal preferred under these rules shall contain all material statements and arguments relied on by the officer preferring the appeal, shall contain no disrespectful or improper language and shall be complete in itself. Every such appeal shall be submitted through the head of the office to which the officer belongs or belonged, and, if an appeal lies to the Governor General in Council or the Secretary of State in Council, through the local Government.

XXIII.—Every appeal to the Governor General in Council, or the Secretary of State in Council, which is not withheld under these rules shall be forwarded by the local Government to the Governor General in Council with an expression of opinion; and every appeal to the Secretary of State in Council, which is not similarly withheld shall be transmitted by the Governor General in Council with an expression of his opinion and the opinion of the local Government:

Provided that appeals to the Secretary of State in Council presented through the Government of Madras, Bombay or Bengal, which are not withheld under these rules, shall be forwarded direct to the Secretary of State in Council by the local Government unless the appeal relates to a case which has previously been under the consideration of the Governor General in Council, in which case it shall be forwarded, in the first instance, to the Governor General in Council.

XXIV.—Every appeal shall be preferred within six months after the date on which the officer preferring the appeal was informed of the orders against which he appeals:

Provided that the local Government, or the subordinate authority, or the Government of India may at their discretion for good cause shown extend the period to 12 months.

XXV.—An appeal may be withheld—

- (1) which is an appeal in a case in which under these rules no appeal lies,
- (2) which does not comply with one or more of the provisions of Rule XXII,
- (3) which does not comply with the provisions of Rule XXIV,
- (4) which is a further appeal presented after a decision has been given by the appellate authority prescribed in these rules, and no new facts or circumstances are adduced which afford grounds for a reconsideration of the case:

Provided that in every case in which an appeal is withheld the officer preferring the appeal shall be informed of the fact and the reasons for it:

Provided further that subject to the conditions stated in Rules XXII and XXIV an appeal to the Secretary of State in Council by an officer appointed by him shall not be withheld when the appeal involves a question of the interpretation of the terms of an officer's engagement.

XXVI.—No appeal shall lie against the withholding of an appeal by a competent authority:

Provided that an appeal withheld for failure to comply with the conditions stated in Rule XXII shall not be withheld if it is resubmitted in a form which complies with that rule.

XXVII.—A list of appeals withheld under Rule XXV, with the reasons for withholding them, shall be forwarded quarterly to the Government of India, in the case of appeals to the Government of India or Secretary of State withheld by a local Government, and, in the case of appeals to the Secretary of State withheld by the Government of India, to the Secretary of State for India.

XXVIII.—The Secretary of State may call for any appeal withheld by the local Government or the Government of India which under the rules may be made to him and may pass such orders as he considers fit: the Governor General in Council may send for an appeal withheld by the local Government which under the rules may be made to him, and may pass such orders as he considers fit.

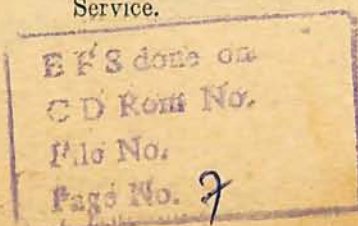
XXIX.—Notwithstanding anything contained in the foregoing rules any officer who immediately before the coming into operation of these rules had a right of appeal against a particular order passed by a local Government to the Governor General in Council and thereafter to the Secretary of State in Council and who had appealed against that order to the Governor General in Council before these rules came into operation may appeal against that order to the Governor General in Council and thereafter to the Secretary of State in Council.

SCHEDULE OF PROVINCIAL SERVICES.

(Rule III.)

MADRAS.

- (1) Madras Civil Service.
- (2) Madras Educational Service.
- (3) Madras Civil Medical Service.
- (4) Madras Police Service.
- (5) Madras Agricultural Service.
- (6) Madras Agricultural Engineering Service.
- (7) Madras Engineering Service.
- (8) Extra Assistant Conservators of Forests.
- (9) District Registrars.
- (10) Gazetted officers of the Jail Department not belonging to the Indian Medical Service.
- (11) Deputy Sanitary Commissioners not belonging to the Indian Medical Service
- (12) Gazetted officers of the Survey and Land Records Department not belonging to the Indian Civil Service.
- (13) Officers above the rank of Assistant Inspectors in the Salt and Excise Department not belonging to the Indian Civil Service.



- (14) Deputy Superintendents in the Veterinary Department and the Assistant Principal of the Veterinary College.
- (15) Chief Inspector and Inspectors of Factories.
- (16) Assistant Registrars of Co-operative Societies.
- (17) The Chief Boiler Inspector and Boiler Inspectors.

BOMBAY.

- (1) Bombay Civil Service.
- (2) Bombay Educational Service.
- (3) Bombay Civil Medical Service.
- (4) Bombay Police Service, and Superintendents of the Bombay City Police.
- (5) Bombay Agricultural Service, that is officers of and above the rank of Assistant Professors of the Agricultural College and Divisional Superintendents not being members of an all-India Service.
- (6) Bombay Engineering Service.
- (7) Extra Assistant Conservators of Forests
- (8) Sub-Registrars of the Bombay City.
- (9) Non-medical Superintendents of Jails.
- (10) Deputy Commissioners not belonging to the Indian Civil Service, Assistant Collectors and Officers of the rank of Senior grade. Inspectors recruited by direct appointment of the Bombay Salt and Excise Department.
- (11) Officers of and above the rank of Assistant Professors of the Bombay Civil Veterinary College and Deputy Veterinary Superintendents not being members of an all-India Service.
- (12) Inspectors of Factories, steam boilers and smoke nuisances.
- (13) Officers of and above the rank of Assistant Registrars and Special Auditors of Co-operative Societies.
- (14) Deputy Sanitary Commissioners, Port Health Officers and Bacteriological officers (including officers in charge of sanitary laboratories) not belonging to the Indian Medical Service.
- (15) Shipping and Deputy Shipping Masters.
- (16) Deputy Political Agents.
- (17) Commissioners and Collectors of Income-tax.
- (18) Bombay Customs Service.

BENGAL.

- (1) Bengal Civil Service.
- (2) Bengal Educational Service.
- (3) Bengal Civil Medical Service.
- (4) Bengal Police Service.
- (5) Bengal Agricultural Service.

- (6) Bengal Engineering Service.
- (7) Bengal Forest Service.
- (8) District Registrars.
- (9) Bengal Excise Service, that is, Prosecutors, Superintendents and Deputy Commissioners.
- (10) Bengal Veterinary Service.
- (11) Deputy Sanitary Commissioners not belonging to the Indian Medical Service.
- (12) Bengal Pilot Service.
- (13) Bengal Gardeners' Service.

UNITED PROVINCES.

- (1) United Provinces Civil Service.
- (2) United Provinces Educational Service.
- (3) United Provinces Civil Medical Service.
- (4) United Provinces Police Service.
- (5) United Provinces Engineering Service.
- (6) United Provinces Agricultural Service.
- (7) Extra Deputy Conservators and Extra Assistant Conservators of Forests.
- (8) Inspectors of Registration Offices.
- (9) Assistant Excise Commissioners.
- (10) Deputy Superintendents of the United Provinces Civil Veterinary Department.
- (11) Deputy and Assistant Registrars of Co-operative Societies.
- (12) Sub-Deputy and Assistant Opium Agents.
- (13) Deputy Sanitary Commissioners not belonging to the Indian Medical Service.

PUNJAB.

- 1) Punjab Civil Service.
- (2) Punjab Educational Service.
- (3) Punjab Civil Medical Service.
- (4) Punjab Police Service.
- (5) Punjab Agricultural Service.
- (6) Punjab Service of Engineers.
- (7) Punjab Forest Service.
- (8) Punjab Veterinary Service.
- (9) Deputy Sanitary Commissioners not belonging to the Indian Medical Service.

BIHAR AND ORISSA.

- (1) Bihar and Orissa Civil Service.
- (2) Bihar and Orissa Educational Service.
- (3) Bihar and Orissa Civil Medical Service.
- (4) Bihar and Orissa Police Service.
- (5) Assistant Directors of Agriculture.
- (6) Bihar and Orissa Engineering Service.
- (7) Bihar and Orissa Forest Service.
- (8) Deputy Superintendents of Jails.
- (9) Superintendents of Excise and Salt.
- (10) Deputy Sanitary Commissioners not belonging to the Indian Medical Service.

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9
8
CENTRAL PROVINCES.

- (1) Central Provinces Civil Service.
- (2) Central Provinces Educational Service.
- (3) Central Provinces Civil Medical Service.
- (4) Central Provinces Police Service.
- (5) Central Provinces Agricultural Service.
- (6) Central Provinces Engineering Service.
- (7) Central Provinces Forest Service.
- (8) Deputy Directors of Land Records.
- (9) The upper cadre of District Excise Officers.
- (10) Deputy Superintendents of the Central Provinces Civil Veterinary Department.
- (11) Collectors of Income-tax.
- (12) Deputy Sanitary Commissioners not belonging to the Indian Medical Service.

ASSAM.

- (1) Assam Civil Service.
- (2) Assam Educational Service.
- (3) Assam Civil Medical Service.
- (4) Assam Police Service.
- (5) Assam Agricultural Service.
- (6) Assam Service of Engineers.
- (7) Extra Deputy Conservators and Extra Assistant Conservators of Forests.

- (8) Excise Superintendents.
- (9) Deputy Superintendents, Assam Veterinary Department.
- (10) Deputy Sanitary Commissioners not belonging to the Indian Medical Service.

BURMA.

- (1) Burma Civil Service.
- (2) Burma Frontier Service.
- (3) Burma Judicial Service.
- (4) Burma Police Service.
- (5) Burma Land Records Service.
- (6) Burma Forest Service.
- (7) Burma Excise Service.
- (8) Burma Agricultural Service.
- (9) Burma Veterinary Service.
- (10) Burma Civil Service, Co-operative Branch
- (11) Burma Educational Service.
- (12) Civil Assistant Surgeons (including Burma Civil Surgeons).
- (13) Burma Engineering Service.

H. TONKINSON,

Joint Secy. to the Govt. of India.



Endorsement

Extract paragraph 5 from Home Department, Government of India, Despatch No. 10 (Ests.) of 1926 dated the 12th August, 1926.

5. We desire to take this opportunity of suggesting certain further amendments in the draft rules. The first relates to rule 6. By the rules made under section 99(2) of the Government of India Act, local Governments have full power to fill up Indian Civil Service posts listed as open to members of the Provincial Civil Service and the Bar. It has throughout been our intention that in future such appointments should be made in consultation with the Public Service Commission. The opening words of rule 6 of the draft Functions Rules seem to cover appointments by promotion from the Provincial Civil Service, but the subsequent words indicate that the rule applies only to appointments made by or in consultation with us and not to appointments made by local Governments to listed posts. In order to remove this ambiguity and to carry out our intention we suggest --

(1) the insertion of the words "(other than the Indian Civil Service)" after the words "all-India Service" in lines 2 and 3 of this rule, and

(2) the amendment of the rules made under section 99(2) of the Government of India Act so as to require local Governments to consult the Public Service Commission before such appointments are made.

The specific amendments required under (2) above are under our consideration and will be submitted for Your Lordship's sanction in due course. We do not consider it necessary to make any provision on the point in the Functions Rules.

EPS done on
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File No.
Page No. 10

P.S.

DEPARTMENT.

File No. *56/273*

BRANCH.

Serial No. *2*

Issue
W.H.L.
8/3

Draft Letter
Memorandum
Telegram

No. *F.2/27-E* Dated *9-3-1927*

Ordinary
Express
Urgent*
Priority
Clear Line†
*Only for Foreign Telegrams.
†Not for Foreign Telegrams.

Class for telegrams

UED

To be issued on	Issued on
1st. <i>M.L.</i> Reminder	
2nd. Reminder	
3rd. Reminder	
Heading:	
Case or Diary No. _____	
If post copy of telegram required _____	
Date of despatch of above _____	
List of enclosures _____	

(Code word for telegrams.)

p. 1/c.

To
The Secretary to the Govt. of
India, Home Department,
New Delhi.

Sir,

I am directed to invite a reference to your letter No. F.-407/26-Ests., dated the 29th January 1927, in which the Government of India consulted the Public Service Commission regarding the procedure to be adopted in making appointments to listed posts in the Indian Civil Service, in order to enable the Commission to discharge functions similar to those which are imposed on them in the case of the other All-India Services by the rule 6 of the Functions Rules.

2. The Commission consider

that this object can be attained

they would

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c.
cord B
W.H.L.
9/3

by
 /an addition to the rules under section
 99(2) of the Government of India Act,
 making it incumbent on local Govern-
 ments to consult the Commission before
 they make any such appointments. They,
 therefore, propose the insertion of the
 following rule after rule 5 of the
 present rules :-

~~The~~
 X local Government shall
 consult the Public Service Commis-
 sion before making any appointment
 (other than an officiating appoint-
 ment) under rules 2, 3 and 5."

3. The Commission contemplate that
 the procedure will be the same as is
 followed in the case of references under
 rule 6 of the Functions Rules, that is
 it will be for the Commission to
 to say, ~~they will~~ satisfy themselves
 that the qualifications of persons
 proposed by local governments are
 sufficient and that their records
 prove them suitable for appointment,
 without taking into consideration the
 possible claims of other persons
 whose names have not been submitted
 to them. For this purpose they would

Handwritten notes:
 I do not prefer to make the
 words 2, 3 & 5
 under rule 2, 3 & 5
 follow but 2 lines
 read under rules 2, 3 &
 other than an officiating
 appointment

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 Page No. 12

wish to be furnished in the case of appointments to listed posts with the same particulars as they require in the cases under Rule 6 of the Functions Rules. I am, therefore, to request that local Governments may be asked, when making proposals to the Commission for promotions under the proposed new rule, to furnish the particulars enumerated in my endorsement No. 572, dated the 22nd November 1926. In the case of a proposal to appoint a member of the Bar it will be sufficient if the following particulars are furnished:

- (a) Age.
- (b) Educational qualifications.
- (c) Qualifications at the Bar, including particulars of the Court or Courts in which he has practised.
- (d) Observations of the Chief Justice, or if he has not practised mainly in the High Court, of the Senior Judge of the Court in which he has practised, on the proposed ~~ap~~ appointment, and
- (e) Any remarks which the local governments may desire to make.

4. As the Government of India have pointed out, under the provisions of Section 99 of the Act no authority other than a local Government is empowered to

100 Not know what
 Endorsement 572 of 22
 Nov. 26 is. Could it be
 placed on the table at the
 next meeting - P.H.
 It is the file below
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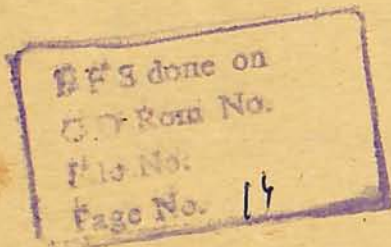
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 P.S.C.
 P.W.

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 File No.
 Page No. 13

14
make these appointments. The Commission think it desirable, however, that the Government of India should be kept informed of the result of all references of the kind contemplated which are made to the Commission. They do not propose that all the correspondence relating to these references should be conducted through the Government of India since this would cause unnecessary delay, particularly in cases in which the Commission might find it necessary to refer back to local governments for the supply of further information. They recognise that this is a matter for the Government of India to decide, but they would suggest that the object which they have in view will be attained if the Government of India order that the final recommendations of the Commission shall be communicated by the Commission to local governments through the Government of India.

I have etc.

JK
Secy.



I suggest 'to the local government concerned in each case' *M.H.*
Chairman Commission
Change unnecessary / W.

15

No. F-407/26-Ests.

Government of India.

Home Department.

*Serial No. 3.
7. 50/27-S.*

From

J.D.V.Hodge, Esq., I.C.S.,

Deputy Secretary to the Government of India,

To

The All local Governments.

SFS done on

CD Rom No.

File No.

Page No. 16 15

7th July 1927.

Subject:- Procedure in making permanent appointments to ~~the~~ listed posts in the Indian Civil Service.

Sir,

I am directed to forward, for information and guidance, a copy of the Home Department notification No. F-407/26-Ests., dated the 7th July 1927, making further amendments in the rules under section 99(2) of the Government of India Act, which were published with the Home Department notification No.

F-438-Ests., dated the 30th March 1922. The effect of the amendments is to render ^{it} obligatory for local Governments to consult the Public Service Commission before making permanent appointments to listed posts in the Indian Civil Service, and thus to assimilate the position of officers so appointed as far as possible to that of officers promoted to other all-India services.

2. On the advice of the Commission and with the approval of the Secretary of State for India in Council, the Government of India have decided to adopt the following procedure in this connection. As the appointments in question cannot, in view of the terms of section 99 of the Government of India

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Amended copy
at p4 and*

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Act, made by any authority except a local Government, correspondence as to the selection of an officer will be conducted by local Governments direct with the Public Service Commission, except that the latter's final recommendations will be communicated to the local Government through the Government of India.

In making recommendations the procedure stated in the Home Department letter No. F-183/27-Ests., dated the 8th June 1927, should be followed. In the case of direct recruits from the Bar for District and Sessions Judgeships, the following particulars should be furnished to the Commission:-

*not done
sub c 4p*

PUBLIC SERVICE COMMISSION
File No.
Lab
Serial on File
Entry No

- (a) age, Deputy Secretary to the Government of India
- (b) educational qualifications,
- (c) qualifications at the Bar, including particulars of the Court or Courts in which he has practised,

BE'S done on
C.D. Kom No.
16
19th May 1927

- (d) observations of the Chief Justice, or if he has not practised mainly in the High Court, of the Senior Judge of the Court, in which he has practised, on the proposed appointment, and

- (e) any remarks which the local Government may desire to offer.

The duties of the Commission will be the same as those which they are required to perform in respect of other all-India Services under rule 6 of their Functions Rules.

The name of the officer appointed by the local Government after consideration of the Commission's recommendations should invariably be intimated to the Government of India.

3. I am to request that, with the permission of His Excellency the Governor in Council, the new procedure may be carefully observed in future whenever permanent appointments to listed posts are to be made, whether from the Provincial Civil Service or the Bar.

I have the honour to be,
Sir,

Your most obedient servant,

Sd/- J.D.V.Hodge.

PUBLIC SERVICE COMMISSION.

File No.

Date - JUL 1927

Serial on File

Diary No 374-S

Deputy Secretary to the Government of India.
List of Enclosures.

1. Forwarded to the Public Service Commission, no. F-407/26-Ests., dated the 29th January 1927, without enclosures.

2. Forwarded to the Public Service Commission, no. F-2/27-E, dated the 9th March 1927.

3. Endorsement from the Public Service Commission, no. 571, dated the 22nd November 1926.

No. F-407/26-Ests.

b.18/c

A copy, with a copy each of the Home Department despatch No. 14(Ests), dated the 14th April 1927 (without enclosures), the Secretary of State's despatch No. 37 (Services), dated the 19th May 1927, and the Home Department notification No. F-407/26-Ests., dated the 7th July 1927, is forwarded to the Public Service Commission for information, with reference to the correspondence resting with its letter No. F-2/27 -E, dated the 9th March 1927.

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p. 23/c.

p. 21/22

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Page No. 17

By order,

[Signature]

Assistant Secretary to the Government of India.

u.c.
8/7

List of Enclosures.

1. Letter to the Public Service Commission, no. F.-407/26-Ests., dated the 29th January 1927, without enclosures.

2. Letter from the Public Service Commission, no. F.-2/27-E., dated the 9th March 1927.

3. Endorsement from the Public Service Commission, no. 571, dated the 22nd November 1926.

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Page No.~~

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1927

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

ESTABLISHMENTS.

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CD Item No.
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Page No.

No. 14, DATED SIMLA, THE 14TH APRIL 1927.

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

SUBJECT.

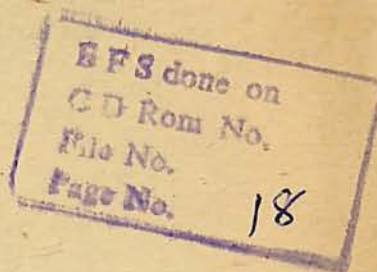
Procedure in making appointments to his
posts in the Indian Civil Service.

No. 14 OF 1927.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

ESTABLISHMENTS.



To
THE RIGHT HONOURABLE THE EARL OF BIRKENHEAD,
His Majesty's Secretary of State for India.

Simla, the 14th April 1927.

SUBJECT :—*Procedure in making appointments to listed posts in the Indian Civil Service.*

MY LORD,

IN paragraph 5 of our despatch no. 10 (Ests.), dated the 12th August 1926, we informed you that it had throughout been our intention that after the Public Service Commission had been established appointments to listed posts in the Indian Civil Service should be made in consultation with that body, and we undertook to submit for your sanction the amendments to the rules under section 99 (2) of the Government of India Act necessary to carry this intention into effect. The justification for this proposal appears to us to be clear. Owing to the provisions of the Act these appointments must continue to be made by the local Governments ; but there is no ground for treating substantive appointments to listed posts in the Indian Civil Service as less important than appointments by promotion to the Indian Police and other all-India Services, or for consulting the Commission on the latter and not on the former. Further, as we explained in paragraph 8 of our despatch no. 14-Establishments, dated the 14th October 1926, it is contemplated that under the new Classification Rules the holders of listed posts, while not becoming regular members of the Indian Civil Service, shall enjoy definite all-India status, and we think it important to emphasize this position.

2. In pursuance of this policy we consulted the Public Service Commission as to the procedure to be followed and the measures to be adopted to give effect to it. We enclose a copy of the correspondence for Your Lordship's information. We accept the Commission's proposals and support them for your approval. We suggest, however, that for the words " rules 2, 3 and 5 " in the draft rule proposed by them should be substituted the words " rule 2, rule 3 or rule 5 " . On receipt of your sanction to the draft rule as so modified, we shall make the necessary amendment in the rules under section 99 of the Government of India Act.

3. In so far as the procedure outlined in paragraph 4 of the Commission's letter of the 9th March 1927 is concerned, we propose to ask local Governments

19

~~2~~

to inform us of the name of the officer appointed after consideration of the Commission's recommendations. This will enable us to keep an effective check on the extent to which local Governments are accepting the Commission's advice and will tend further to emphasise the all-India character of these appointments.

We have the honour to be,

MY LORD,

Your Lordship's most obedient, humble servants,

(Signed) IRWIN.

„ W. R. BIRDWOOD.

„ B. P. BLACKETT.

„ A. P. MUDDIMAN.

„ B. N. MITRA.

„ MD. HABIBULLAH.

„ S. R. DASS.

„ G. RAINY.

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India Office, London,
19th May 1927.

Services,
No. 37.

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

MY LORD,

I have considered in Council the proposals submitted in the Despatch of Your Excellency's Government in the Home Department, No. 14, dated 14th April 1927, relative to the procedure to be followed in the making of appointments to listed posts in the Indian Civil Service. I am satisfied as to the justification for the proposals submitted by you, and I hereby sanction, with the concurrence of the majority of votes at a meeting of the Council of India, the amendment recommended by you in the Rules under section 99 (2) of the Government of India Act governing the making of appointments to listed posts in the Indian Civil Service.

2. I shall be glad to receive in due course 30 copies of the Rules as amended.

I have the honour to be,

My Lord,

Your Lordship's most obedient humble Servant.

(Signed) BIRKENHEAD.

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Simla, the 7th July 1927.

Notification.

In exercise of the power conferred by sub-section (2) of section 99 of the Government of India Act, the Governor General in Council is pleased to direct that the following further amendments, which have been sanctioned by the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the Council of India, shall be made in the rules published in the Home Department notification No. F-438-Ests., dated the 30th March 1922, namely:-

(i) After rule 5, of the said rules the following rule shall be inserted, namely:-

"6. The local Government shall consult the Public Service Commission before making any appointment (other than an officiating appointment) under rule 2, rule 3 or rule 5".

(ii) Rules 6, 7 and 8 of the said rules shall be re-numbered 7, 8 and 9 respectively.

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Sd/ H.G. Haig.

Secretary to the Government of India.