

HOME *Recd. 18/79* DEPT.

**EDUCATION.**

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22.1.2013

*Proceedings September*

*Nos. 5051*  
OC-37/2013. FNS

**SUBJECT.**

*Leave and pension of the Law professorships of the Presidency  
College, Calcutta*

**PREVIOUS REFERENCES.**

A January 1879, nos. 83/84  
B November 1862, - 10/11

**LATER REFERENCES.**

B February 1891 nos. 107/108  
B October 1891 - 10/12

10

FROM H. L. HARRISON, Esq.,

Offg. Secretary to the Govt. of Bengal,

TO THE SECRETARY TO THE GOVERNMENT OF INDIA,  
HOME, REVENUE AND AGRICULTURAL DEPARTMENT.Calcutta, { dated the 18th July, } 1879.  
{ issued 19th July }

APPOINTMENT DEPT.

Sir,

I AM directed to submit, for the consideration of the Government of India, the question whether the Law Professorships of the Presidency College are to be regarded as substantive appointments, carrying with them pensionary and leave rights, or merely contract allowances for work done.

## 2. The appointments were constituted in the following manner:—

Prior to the year 1855 only one Professor was attached to the institution, but in May of that year two Professors were appointed—the Senior Professor receiving Rs. 400 per mensem as salary, and the Junior Professor Rs. 300 per mensem. Some time after the pay of the Senior Professor was raised to Rs. 700 per mensem. In August 1852, on the recommendation of the Director of Public Instruction, the duties of the two Professors were equalized, and the pay of the Junior Professor was also raised to Rs. 700 per mensem; still it was never supposed that the whole time of these officers was claimed or paid for by Government, and they always retained the right of practising their profession. On Mr. Brumson vacating the Law Professorship in April 1870, Mr. Millett was appointed to succeed him on a salary of Rs. 500 per mensem; and on this gentleman's departure on furlough in April 1876, the arrangements then existing were altered, and the following appointments were made:

(a.)—Baboo Troylockho Nabi Mitter was appointed to deliver a course of twenty lectures on Hindu Law for a lump sum of Rs. 1,500.

(b.)—Mr. Amer Ali was appointed to deliver a course of twenty lectures on Mahomedan Law for a similar amount.

(c.)—Mr. W. E. Forsyth was appointed to deliver a course of twenty lectures on Evidence, &c., for a fee of Rs. 2,500.

In conformity with these arrangements, Mr. Ingram, the then Senior Professor, had to give up Rs. 1,000 out of his pay of Rs. 500 per mensem for the remainder of the session of 1875, in consideration of his lectures not being continued beyond the Dassirah vacation. In January 1876, when Mr. Millett was appointed First Judge of the Calcutta Small Cause Court, the following alterations were made in the Law Professorships of the College:

(a.)—The pay of Mr. Ingram was reduced from Rs. 700 to Rs. 500 per mensem, and in return for this he was allowed the right to accept mufti briefs, and to close his course of lectures when the High Court vacation began about the end of September.

(b.)—Mr. C. F. E. Allen was appointed Lecturer in English Law on a salary of Rs. 400 per mensem, or Rs. 4,800 per annum.

(c.)—Baboo Troylockho Nabi Mitter was appointed Lecturer on Hindu Law for a fee of Rs. 1,500 for the whole session.

(d.)—Mr. Amer Ali was appointed Lecturer on Mahomedan Law for a fee of Rs. 1,500 for the whole session.

In January 1877, instead of a Professor of Law on Rs. 500 per mensem, and a Lecturer on Rs. 400 per mensem, two Law Lecturers were entertained on Rs. 450 each. This arrangement is still in force.

3. Looking to the manner in which the funds sanctioned for the legal staff of the institution have been dealt with, it appears inevitable that complications will arise, unless the character of these appointments, as regards their pensionary and leave liabilities, is clearly defined; gradually under the force of circumstances they have come to partake more and more of the character of contract allowances for work done.

4. The Accountant-General, who was consulted in the matter, is of opinion that, as a fact, up to date the appointments do constitute the holders Government servants; but he entirely concur in the desirability of deciding otherwise for the future. The Lieutenant-Governor, however, occurs in this view, and he therefore desires to give the Government the power to sanction the issue of a definite ruling, to the effect that the allowances, which are now given as contract or attract allowances, that they do not carry pension or entitle to leave, shall be given to the holders of the posts, with pay, or constitute the holders Government officers. This ruling will apply to all future appointments, as well as to all existing temporary appointments, such as the Lectureships on Rs. 1,500, 1,800, or 2,500 for a fixed term. In this case, even though the same Lecturer may be re-appointed. Hitherto, however, no pension has been preferred, and but very rarely a claim to leave has been made; but it would be more equitable to decide that the new ruling shall apply to all cases, and that the rights of any gentleman already appointed, in whose case a claim may arise must be considered on their own merits.

I have the honor to be,

Sir,

Your most obedient servant,

W. H. Harrison

Offg. Secy. to the Govt. of Bengal.

K. W.  
GOVERNMENT OF INDIA.  
DEPARTMENT OF FINANCE AND COMMERCE.

Proceedings, September, 1879.

LEAVE, LEAVE ALLOWANCES, &c.  
[Service towards Leave.]

Nos. 103 & 104.

Being that a Law Professor or Law Lecturer in the Presidency College, Calcutta, whose whole time is not devoted to the public service, is not entitled to leave or pension.

NOTES IN THE HOME, REVENUE AND AGRICULTURAL DEPARTMENT.

From Government of Bengal.—No. 34524, dated the 18th July 1879.

The Bengal Government submit for consideration the question whether the Law Professors of the Presidency College are to be regarded as substantive appointments, carrying with them pensionary or leave rights, or merely contract allowances for work done.

The constitution of these Law Professorships is fully stated in the Bengal letter. To arrive at a decision on the present question it is only necessary to review the correspondence from January 1876.

The Junior Law Professorship of the College having become vacant by the appointment of Mr. Millett as First Judge of the Calcutta Small Cause Court, the Principal of the College proposed the following arrangements:—

- (1) That the salary of Rs. 100 per mensem allowed to the Senior Law Professor should be reduced by Rs. 200, on the condition that Mr. Ingram be allowed to accept mafusil briefs, and to bring his lectures to a conclusion in time to be able to avail himself of the annual High Court vacation. If required to proceed to the Mafusil during the period of delivering lectures, he was to give a substitute who should be approved by Government.
- (2) In place of the Junior Professor to engage three Lecturers dividing among them and Mr. Ingram the course of lectures to be delivered during the Sessions.

Mr. Ingram.

Jurisprudence, Legal History, and Constitutional Law	36 Lectures.
Ordnance Law and Procedure	40 "
Land Taxes and Revenue Law	16 "
<b>TOTAL</b>	<b>92 Lectures.</b>

First Lecturer.

Contracts and Torts	20 Lectures.
Evidence and Civil Procedure	32 "
Registration, Ligation and Prescription, Mortgages	18 "
<b>TOTAL</b>	<b>70 Lectures.</b>

Second Lecturer.

Hindoo Law	26 Lectures.
<b>TOTAL</b>	<b>26 Lectures.</b>

Third Lecturer.

Mahomedan Law	26 Lectures.
<b>TOTAL</b>	<b>26 Lectures.</b>

( 2 )

Mr. Sutcliffe proposed that the First Lecturer should receive a salary of Rs. 400 per mensem, or Rs. 4,800 per annum, and added that there would probably be no difficulty in securing the services of a competent Barrister "when the conditions of the appointment are made known." These conditions are, however, not stated anywhere. The second and third Lecturers to receive a fee of Rs. 1,800 each for the 25 Lectures. These Lectureships to be tenable for three years, after which the Lecturers might be eligible for re-appointment.

The Bengal Government sanctioned these proposals on the 21st January 1876.

Again it appears that in January 1877, instead of a Professor of Law on Rs. 500 per mensem and a Lecturer on Rs. 400, two Law Lecturers were entertained on Rs. 450 each, and this arrangement is still in force, but we can trace no correspondence on the subject in the Bengal Proceedings volumes which would show under what circumstances and conditions these appointments were made.

The Lieutenant-Governor is desirous that a definite ruling should be issued to the effect that the allowances are contract allowances; that they do not carry pension or entitle to leave of absence with pay, or constitute the holders Government Officers.

As it is clear that these Law Lecturers are allowed private practice, and even hold other appointments, for instance Mr. Amir Ali, they have no claim whatever to pension; for Section 14 of the Pension Code says:—

"Pension is not earned by a person whose whole time is not retained for the public service merely because he is paid for work done for the State."

As regards leave allowances. Lectureships such as these, cannot fairly give any claim to these allowances. The payment is for a course of lectures delivered, and if a Lecturer takes leave, it is as much as he should expect if the post is kept open for him. A parallel may be found in the case of Roman Catholic Chaplains who are paid only for the work actually done by them and have no further claims on Government.

12th August 1879.

W. J. S.

This is to a great extent a question for the Financial Department, but it would seem that the Home Department may, under the circumstances represented, support the recommendations made by the Bengal Government, which are—

- (1) The issue of a definite ruling that the allowances in question are contract allowances; that they do not carry pension or entitle to leave of absence with pay or constitute the holders Government Officers;
- (2) That this ruling shall apply to all future appointments, and also to all existing temporary appointments, such as the lectureships on Rs. 1,500, 1,800 or 2,500 for a fixed term as they happen, even though the same Lecturer may be re-appointed; and
- (3) That the new ruling should not prejudice or affect the rights of any gentleman already appointed in whose case any claims, which may arise, must be considered on their own merits.

If this is sanctioned, the general ruling should, perhaps, be so worded as not to imply that the present incumbents have any claim whatever on Government.

13th August 1879.

F. C. D.

Secretary.

We may ask the Financial Department to agree to the Bengal proposals, which are in entire accord with the recent Financial decision regarding Medical Lectureships held by persons not in the Government service.

14th August 1879.

C. B.

Honorable Member.

Yes.

14th August 1879.

A. J. A.

To Financial Department for answer or remarks.

C. B.

Under-Secretary.—The rule to pension is so plain that it may be declared without reservation that the officers have no claim to pension (Section 14 on page 7).

The question as to leave is rather difficult. In the generality of cases it may be safely declared that the officers are not eligible for leave under any rules in the Civil Leave Code or its Supplements; but in some instances leave under Supplement E was granted in previous years.

14th August 1879.

D. M. S. W.

The Law Professors and Lecturers are not "Law Officers" for the purposes of Supplement Civil Leave Code. They cannot, therefore, obtain leave under the rules in that Supplement.

( 3 )

They do not hold "substantive appointments on permanent establishments," (Section 2, Supplement F). They cannot therefore obtain leave under Supplement F.

They are neither—

- (a) Covenanted Civil Servants.
- (b) Military Officers in Civil employ.
- (c) Unsworned officers of any class specified in Schedule A to the Civil Leave Code. (Section 4, Civil Leave Code)

The rules in the Civil Leave Code do not therefore apply to them. Therefore they can get no leave (under rule, and therefore with allowances) from Government.

20th August 1879.

E. J. S.

Draft a Resolution reciting all the cases. The case of a Professor whose whole time is not devoted to the public service does not differ from that of any other person thus partially employed. Section 14 of the Civil Pension Code applies to them, and they have no claim to pension. Nor do the Rules in the Civil Leave Code or its Supplements apply to them.

26th August 1879.

R. B. C.

Home Department to see before issue.  
6th September 1879.

R. B. C.

Submitted.  
9th September 1879.

W. J. S.

Seen by Home Department and returned to Financial Department.  
10th September 1879.

P. C. D.

Under-Secretary.—May now issue?  
15th September 1879.  
12th September 1879.

DENONIATH.  
E. J. S.

(True Copy)

Admoniath Sanyal  
At Registrar Deptt of Finance  
and Commerce, Calcutta

[S. J. D.]

3/35



No. 4067 A

From *H. S. Harrison Esq.*  
Secretary to the Government of Bengal,

Financial Department,

To

*The Secretary to the Government of India  
Home, Revenue and Agricultural Department*  
Dated Calcutta, the 17th September 1879.

Sir,

I am directed to invite your attention to the letter from this office No. 40652, dated 18th July last, submitting for decision the question whether the Law Professorships of the Presidency College are to be regarded as substantive appointments carrying with them pensionary and leave rights, or merely as contract allowances for work done, and to request that the Government of India may be moved to pass early orders on the subject.

I have the honor to be  
Sir,  
Your most Obedient Servt

W. S. Hartlieb  
Off Secy to the Govt

15/35

No. 1765.

GOVERNMENT OF INDIA.

DEPARTMENT OF FINANCE AND COMMERCE.

LEAVE AND LEAVE ALLOWANCES.

To

THE SECRETARY TO THE GOVERNMENT OF BENGAL.

SIMLA, THE 22ND JULY 1879.

SIR,

In reply to your letter received in the Home Department, No. 1618, dated 11th June 1879, I am directed to say that when an Officer, whose whole time is retained for the public service (*see Section 14 of the Civil Pension Code*), is appointed to a Minor Professorship, the remuneration which he receives for the duty should be treated as "Pay" or "Salary", and taken into account in the calculation of his Absentee Allowances and, in the case of an Uncovenanted Officer, Pension. But it follows that the allowances of any Officer appointed to officiate in a Minor Professorship must be regulated by the Acting Allowance Code, and that a serious error was committed when full pay was allowed to the Officer who acted for Dr. Woodford in 1869 and 1873.

I have the honor to be,

SIR,

Your most obedient Servant,

R. B. CHAPMAN,  
*Secretary to the Govt. of India.*

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Copy forwarded to Accountant General, Bengal, for information and for explanation of the mistake made in 1869 and 1873.

Copy also forwarded to the Home, Revenue, and Agricultural Department.