

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 19.06.2019

CORAM:

THE HONOURABLE **MR. JUSTICE S.M.SUBRAMANIAM****W.P. (MD) Nos. 9646 to 9654 of 2015**

A. Ayyachamy	... Petitioner in WP(MD). 9646/ 2015
D.Manickam	... Petitioner in WP(MD). 9647/ 2015
T. Ramanathan	... Petitioner in WP(MD). 9648/ 2015
S.Nambu Visvanathan	... Petitioner in WP(MD). 9649/ 2015
N.Balu	... Petitioner in WP(MD). 9650/ 2015
S. Kothandaraman	... Petitioner in WP(MD). 9651/ 2015
G. Govindaraju	... Petitioner in WP(MD). 9652/ 2015
S.Mathanagopalan	... Petitioner in WP(MD). 9653/ 2015
K. Karuppasamy	... Petitioner in WP(MD). 9654/ 2015

Vs. -

1. The Secretary to Government,
Revenue Department, Secretariat, Chennai 9
 2. The Commissioner / Director of Survey and Settlement,
Survey House, Chepauk, Chennai 5
- ... Respondents in all WPs

Prayer in WP(MD). 9646/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent i.e. The Secretary to Government, Revenue Department, Chennai relating to G.O. (Perm) NO. 148 Revenue Department dated 27.03.2015 and quash the same and consequently direct the respondents to pay the scale of pay in the cadre of Assistant Director of Survey and Land Records for the period from 01.07.2004 to 31.10.2004 during which the petitioner was serving as Assistant Director of Survey and Land Records, Pudukottai and consequently to refix the pension within a specified time frame that may be fixed by this Honourable Court.



Prayer in WP(MD). 9647/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent i.e. The Secretary to Government, Revenue Department, Chennai relating to G.O. (Perm) NO. 148 Revenue Department dated 27.03.2015 and quash the same and consequently direct the respondents to pay the scale of pay in the cadre of Assistant Director of Survey and Land Records for the period from 31.05.2005 to 31.01.2006 during which the petitioner was serving as Assistant Director of Survey and Land Records, Ramanathapuram and consequently to refix the pension within a specified time frame that may be fixed by this Honourable Court.

Prayer in WP(MD). 9648/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent i.e. The Secretary to Government, Revenue Department, Chennai relating to G.O. (Perm) NO. 148 Revenue Department dated 27.03.2015 and quash the same and consequently direct the respondents to pay the scale of pay in the cadre of Assistant Director of Survey and Land Records for the period from 30.11.2005 to 30.06.2006, during which the petitioner was serving as Assistant Director of Survey and Land Records, Pudukkottai and consequently to refix the pension within a specified time frame that may be fixed by this Honourable Court.

Prayer in WP(MD). 9649/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent i.e. The Secretary to Government, Revenue Department, Chennai relating to G.O. (Perm) NO. 148 Revenue Department dated 27.03.2015 and quash the same and consequently direct the respondents to pay the scale of pay in the cadre of Assistant Director of Survey and Land Records for the period from 28.07.2004 to 31.12.2004 during which the petitioner was serving as Assistant Director of Survey and Land Records, Tiruchirapalli and consequently to refix the pension within a specified time frame that may be fixed by this Honourable Court.

Prayer in WP(MD). 9650/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent i.e. The Secretary to Government, Revenue Department, Chennai relating to G.O. (Perm) NO. 148 Revenue Department dated 27.03.2015 and quash the same and consequently direct the respondents to pay the scale of pay in the cadre of Assistant Director of Survey and Land Records for the period from 27.09.2004 to 30.11.2005 during which the petitioner was serving as Assistant Director of Survey and Land Records, Ramanathapuram and consequently to refix the pension within

a specified time frame that may be fixed by this Honourable Court.

Prayer in WP(MD). 9651/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent i.e. The Secretary to Government, Revenue Department, Chennai relating to G.O. (Perm) NO. 148 Revenue Department dated 27.03.2015 and quash the same and consequently direct the respondents to pay the scale of pay in the cadre of Assistant Director of Survey and Land Records for the period from 01.11.2005 to 30.06.2006, during which the petitioner was serving as Assistant Director of Survey and Land Records, Nagercoil and consequently to refix the pension within a specified time frame that may be fixed by this Honourable Court.

Prayer in WP(MD). 9652/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent i.e. The Secretary to Government, Revenue Department, Chennai relating to G.O. (Perm) NO. 148 Revenue Department dated 27.03.2015 and quash the same and consequently direct the respondents to pay the scale of pay in the cadre of Assistant Director of Survey and Land Records for the period from 22.11.2004 to 30.06.2005, during which the petitioner was serving as Assistant Director of Survey and Land Records, Pudukottai and consequently to refix the pension within a specified time frame that may be fixed by this Honourable Court.

Prayer in WP(MD). 9653/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent i.e. The Secretary to Government, Revenue Department, Chennai relating to G.O. (Perm) NO. 148 Revenue Department dated 27.03.2015 and quash the same and consequently direct the respondents to pay the scale of pay in the cadre of Assistant Director of Survey and Land Records for the period from 30.06.2005 to 30.11.2005 during which the petitioner was serving as Assistant Director of Survey and Land Records, Ramanathapuram and consequently to refix the pension within a specified time frame that may be fixed by this Honourable Court.

Prayer in WP(MD). 9654/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent i.e. The Secretary to Government, Revenue Department, Chennai relating to G.O. (Perm) NO. 148 Revenue Department dated 27.03.2015 and quash the same and consequently direct the respondents to pay the scale of pay in the cadre of Assistant Director of Survey and Land Records for the period from 04.12.2003 to 30.06.2004, during which the petitioner was serving as Assistant Director of Survey and Land



Records, Nagercoil and consequently to refix the pension within a specified time frame that may be fixed by this Honourable Court.

For Petitioner in all W.Ps : Mr.S.Visvalingam

For R1 and R2 in all W.Ps : Mr.K.Mu.Muthu

Additional Government Pleader

COMMON ORDER

The Government Order issued in G.O.Ms.No.148 Revenue Department, dated 27.03.2015, rejecting the claim of these writ petitioners to settle their benefits in the cadre of Assistant Director of Survey and Land Records, in which, these writ petitioners were posted as in-charge Officials, is under challenge in this writ petition.

2.The writ petitioners, admittedly, were regularly holding the post of the Inspector of Survey and Land Records. In view of the fact that the competent higher authorities were unable to fill-up the post of Assistant Director of Survey and Land Records, the writ petitioners, who were holding the post of Inspector of Survey and Land Records were directed to function as in-charge Assistant Director of Survey and Land Records, during the interregnum period. Admittedly, all the writ petitioners were functioning as in-charge Assistant Director of Survey and Land Records for certain period. Taking advantage of the accommodation provided to these writ petitioners to function as in-charge Assistant Director of Survey and Land Records, now the petitioners claim that they must be granted all the terminal and pensionary benefits attached to the post of Assistant Director of Survey and Land Records.

3.The learned counsel for the writ petitioners made a submission that the similar issue was considered during earlier occasions by the Tamil Nadu Administrative Tribunal, which was also accepted by the High Court and accordingly, the benefits attached with the in-charge positions were also extended to the persons, who functioned in in-charge posts.

4.The learned Additional Government Pleader appearing on behalf of the respondents opposed the said contention by stating that at no point of time, these writ petitioners were regularly appointed and promoted to the post of Assistant Director of Survey and Land Records.

5.All these writ petitioners were posted to function as in-charge Assistant Director of Survey and Land Records for a short-span of period. Thus, these positions were issued on certain administrative exigencies and such reasons to hold the post as in-charge would not confer any right on the writ petitioners to claim regular pensionary benefits attached to the higher posts, in which,



they functioned as in-charge official.

6. This Court is of the considered opinion that temporary promotions and appointments are very much contemplated under the rules. So also additional charges, in-charge positions are also granted by the Higher Officials. All these temporary accommodations are provided, in order to run the public administrations smoothly. The public administration is to be maintained with efficiency and there cannot be any public office without an official for the purpose of providing public services to the citizen at large. Under these circumstances, if a particular official is posted as an in-charge official or additional charge, he is temporarily posted to function in a particular post on administrative exigency and therefore, he cannot claim any regular benefits attached to the said post. If at all, any allowances or other perks attached to the post during the functioning can be availed and the regular benefits like terminal and retirement benefits are to be settled only with reference to the post in which, the official has been regularly appointed or promoted. For instance, if a provision for some allowances are provided or if the benefits to the Government vehicle is provided the same can be utilized, while functioning as in-charge Assistant Director of Survey and Land Records. However, the settlement of pensionary and terminal benefits are to be settled only with reference to the post, in which, the employee has been regularly appointed/promoted and not otherwise.

7. The Courts have repeatedly held that in-charge position is a temporary arrangement and mostly made on certain administrative exigencies. Such a position would not confer any right on the employee to claim the regular benefits attached to the posts. The regular terminal and pensionary benefits are to be settled only with reference to the post, to which, the employee is regularly promoted or appointed. This being the legal principles, this Court is of the considered opinion that the respondents have rightly settled the terminal and pensionary benefits to these petitioners in the cadre



of Inspector of Survey and Land Records. Admittedly, the writ petitioners were functioning as in-charge Assistant Director of Survey and Land Records for a short-span of period on certain administrative exigencies and therefore, they are not entitled to get pensionary and terminal benefits attached to the post of Assistant Director of Survey and land Records. Thus, the order impugned passed by the first respondent is in consonance with the legal principles settled by the Courts and there is no infirmity as such.

8. Accordingly, all these writ petitions stands dismissed. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Secretary to Government,
Revenue Department,
Secretariat,
Chennai-600 009.

2. The Commissioner/
Director of Survey and Settlement
Survey House,
Chepauk,
Chennai-600 005.

9CC TO MR.S.VISVALINGAM, ADVOCATE SR 69850

1CC TO THE SPL GOVT PLEADER SR 70305

TR

17/07/2019

6P 13C

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