

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Writ Petition No.6442 of 2007

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V.Kannayyan

..Petitioner

Vs

1. The Director of Agriculture  
Chennai-5

2. The Regional Asst.Director of Agriculture  
Tiruvarur, Nagai District

..Respondents

Prayer : Originally this petition has been filed as Original Application No.3383 of 2003 before the TamilNadu Administrative Tribunal at Chennai and after abolition of TNAT, petition has been transferred and numbered as W.P.6442 of 2007.

Petition filed praying to issue a writ of Certiorarified Mandamus to call for the records of the 2<sup>nd</sup> respondent in relation to his proceedings issued in ATM.MEK.OM.No.A.525/2002 dated 18.4.2002 and quash the same and issue a consequential direction to the respondent to pay the additional pay to the applicant for holding the additional charge of the above Grade II Depot Manager, Agriculture Extension Centre, Keevalur, Nagai District for a period from 31.03.96 to 31.3.99.

For Petitioner : Mr.A.Prakash  
for Mr.P.Saseetharan

For Respondents : Mr.K.Magesh, Spl.G.P.

ORDER

The Petitioner has filed the present writ petition challenging the 2<sup>nd</sup> respondent proceedings dated 18.4.2002 and seeks to quash the same and for a consequential direction to the respondents to pay the additional pay to the applicant/petitioner for holding the additional charge of the Grade II Depot Manager, Agriculture Extension Centre, Keevalur, Nagai District for a period from 31.03.96 to 31.3.99.

2. The petitioner was working as Depot Manager, Grade III at Agriculture Extension Centre in Thevur, Keevalur Block, Nagai

District. While so, by order dated 29.03.1996, he was posted to discharge the duties and responsibilities of the post of Depot Manager, Grade II at Agriculture Extension Centre at Keevalur. According to the petition, in the above said order dated 29.03.1996, it is clearly stated that the petitioner shall discharge the duties and responsibilities in the said post as full additional charge. Accordingly, the petitioner took the additional charge on 31.3.1996 as additional charge in addition to the post Grade III Depot Manager and was relieved from the additional charge only on 31.3.1999 after a period of three years.

3. According to the petitioner, he was posted to the post of Grade II Depot Manager by order dated 29.3.1996 to take additional charge, therefore, he is entitled for additional pay and allowances as per FR 49. But he has not been paid any additional pay for the above said 3 years period. Therefore, the petitioner made a representation to the Director of Agriculture, 1<sup>st</sup> respondent on 26.2.2002 and also sent a copy of the said representation to the 2<sup>nd</sup> respondent. However, by order dated 18.4.2002, the petitioner's claim was rejected by the 2<sup>nd</sup> respondent saying that the additional pay would be payable under FR 49 if the two posts involve independent decisions which can be termed as additional charge, that if the additional post is different category and if limit of jurisdiction is also different. Challenging the said rejection order passed by the 2<sup>nd</sup> respondent, this petition is filed.

4. The learned counsel for the petitioner would submit that the petitioner is eligible to get the benefits as per provisions under F.R.49(iii) for the period from 31.03.96 to 31.3.99 and also eligible for all consequential benefits and allowances since he was holding the additional charge.

5. It is not in dispute that the petitioner was holding the post of Grade III Depot Manager and he was posted to discharge the duties and responsibilities of the post of Grade II Depot Manager for the period from 31.3.1996 to 31.3.1999. The post of Depot Manager Grade III at Thevur and Grade II Depot Manager at Keevalur are independent and separate. In such circumstances, the Government Servant should be allowed the additional remuneration as indicated in FR49. F.R.49 reads as follows:-

"F.R. 49. The State Government may appoint a Government servant already holding a post in a substantive or officiating capacity to officiate, as a temporary measure, in one or more of other independent posts at one time under that Government. In such cases, his pay is regulated as follows:-

(iii) Where a Government servant is formally appointed to hold charge of another post or posts

which is or are not in the same office, or which, though in the same office, is or are not in the same cadre/line of promotion, he shall be allowed the pay of the higher post or of the highest post if he holds charge of more than two posts in addition to ten percent of the presumptive pay of the additional post or posts, if the additional charge is held for a period exceeding 39 days but not exceeding 3 months "

6. In the present case, it is clear that the petitioner was holding additional charge of Grade II Depot Manager at Keevalur. Therefore, the petitioner is eligible for pay of the higher post he was holding the charge, in addition to ten percent (10%) of the presumptive pay of the additional post or posts, additional pay and allowance as per F.R.49, for the period from 31.3.1996 to 31.3.1999.

7. In the result, the Writ Petition is allowed. The respondents are directed to grant the additional pay and allowance as per F.R.49 for the scale of the post of Depot Manager, Grade II from 31.03.1996 to 31.03.1999 to the petitioner. Further, the petitioner is eligible for all consequential benefits. The above directions should be complied with, within three months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Director of Agriculture  
Chennai-5
2. The Regional Asst. Director of Agriculture,  
Tiruvarur, Nagai District

+1cc to Mr.R.Saseetharan, Advocate, S.R.No.33246

+1cc to the Government Pleader, S.R.No.33520

W.P.6442 of 2007

LN(CO)  
RV(10/11/2020)