



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.(MD) No.15486 of 2013

R.Krishnasamy

... Petitioner

Vs.

1.The Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat,
Fort St. George,
Chennai - 600 009.

2.The Commissioner / Director of Rural Development
and Panchayat Raj,
Panagal Building,
Saidapet,
Chennai - 600 015.

3.The Principal,
Regional Institute of Rural Development,
Krishnagiri Dam,
Krishnagiri District.

4.The Principal Accountant General (A & E),
Tamil Nadu,
Teynampet,
Chennai - 600 018.

5.The District Treasury Officer,
Krishnagiri,
Krishnagiri District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the orders passed by the 2nd respondent bearing No.4329/2008/GE-1-1, dated 13.12.2010 and 29.04.2013 and records relating to the 4th respondent bearing No.GADIV/III 973-131161, dated 15.11.2011, 251-164631, dated 20.01.2012, 69-12424 dated 27.04.2012 and No.33982, dated 27.06.2013 and quash the same and consequently direct the respondents to sanction the petitioner's additional charge allowance for the eligible period of five months from 15.03.2007 to 14.08.2007 on the revised scale of pay fixed by the 4th respondent with effect from 01.01.2007 with 18 per cent composite interest from 14.08.2007 to till the date of payment.

<https://hcservices.ecourts.gov.in/hcservices> For petitioner

: Mr.C.Jeganathan



For respondents 1 to 3 & 5 : Mr.S.Dhayalan,
Government Advocate

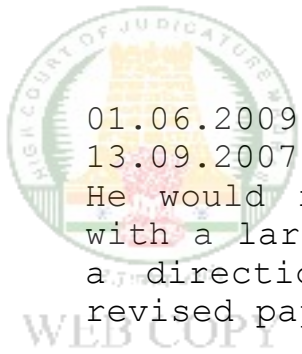
For 4th respondent : Mr.P.Gunasekarn

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ORDER

The case of the petitioner is that he, apart from his regular post of Project Officer, Mahalir Thittam, Krishnagiri District, held full additional charge of the post of Principal, Regional Institute of Rural Development, Krishnagiri for the period from 15.03.2007 to 13.09.2007, nearly 5 months and 30 days, and retired from service on attaining the age of superannuation on 31.03.2008. As per Rules 49(1)(iii) of the Fundamental Rules, the petitioner is eligible for additional pay at the rate of one fifth of the pay drawn in the regular post or half of the minimum pay of the additional post, whichever is less for the period of five months. Though the fourth respondent revised the pay scale notionally with effect from 01.01.2006 to the post which was holding by the petitioner and gave monetary benefit with effect from 01.01.2007 based on sixth pay commission recommendation, at the time of issuing authorization for payment of additional charge allowance, he took lesser pay prior to the Sixth Pay Commission recommendations and ignored the higher pay fixed by him earlier. Subsequently, based on the defective authorization of the fourth respondent, the third respondent prepared a bill and presented to the fifth respondent, but the fifth respondent returned the bill pointing out defects in the authorization proceeding. The petitioner, after retirement, sent representations after representations for rectification of defects in full. But, the respondents rectified defects to some extent and refused to rectify all the defects pointed out by the petitioner. Hence, he has come up with this writ petition.

2. When the matter came up for hearing today, the learned counsel for the petitioner submitted that as per the Sixth Pay Commission recommendation, the scale of pay of the petitioner revised notionally from 01.01.2006 and with monetary benefits from 01.01.2007. As per Rule 49(1)(iii) of the Fundamental Rules, the petitioner is entitled to 1/5 of the pay drawn in the regular post or 1/2 of the minimum pay of the additional post, whichever is less for a period of five months. As the pay scale of the post, which was holding by the petitioner, revised as per Sixth Pay Commission Recommendations with effect from 01.01.2006, the petitioner claimed to take into account revised pay for holding full additional post for a period of five months. But, the respondents denied to provide the same holding that as per G.O.Ms.No.236, dated 01.06.2009, the Sixth Pay Commission Recommendation to the charge allowance can be effected only from



01.06.2009 and as the petitioner served from 15.03.2007 to 13.09.2007, the revised pay scale cannot be taken into account. He would further submit that though the petitioner has come up with a larger prayer, the petitioner restricts his prayer only for a direction to pay additional charge allowance based on the revised pay scale.

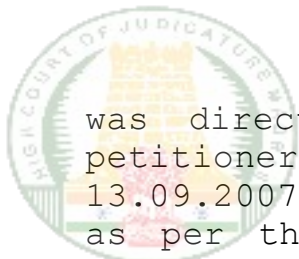
3. The learned counsel appearing for the respondents in unison submitted that the Government of Tamil Nadu has revised the charge allowances by issuing G.O.Ms.No.236, dated 01.06.2009, with effect from the date of issuance the said G.O. ie., from 01.06.2009. Therefore, the claim of the petitioner cannot be considered and hence, this writ petition may be dismissed.

4. Heard the learned counsel for both sides and perused the records carefully.

5. The only issue to be decided in this case is as to whether the petitioner is entitled to additional charge allowance, as per the pay scale which was in existence ie., the Vth Pay Commission scale or as per the revised pay scale ie., the VIth Pay Commission scale?

6. Admittedly, it is not in dispute that the pay scale of the post which was holding by the petitioner and the additional post which was given full charge to the petitioner, were revised as per recommendations of the Sixth Pay Commission from 01.01.2006 and with monetary benefits from 01.01.2007. He has also been paid arrears for the same. The only reason on which the fourth respondent denying to pay additional pay in the revised scale is that as per G.O.Ms.No.236, the revised scale to the charge allowance shall be applicable only from 01.06.2009. A perusal of G.O.Ms.No.236, dated 01.06.2009 shows that except the Charge Allowance, all other allowances were enhanced and the same was given effect from 01.06.2009. For the Charge Allowance, it is stated that "this allowance shall be paid as prescribed under FR-49". In other words, it says that the charge allowance shall be paid as it is. It has not been specifically stated that the Charge Allowance shall be paid on the basis of earlier pay scale or the revised pay scale to this allowance is applicable only with effect from 01.06.2009. Therefore, it can be construed that the date 01.06.2009 fixed in the said G.O. is not applicable to the charge allowance.

7. As per Rule 49(1)(iii) of the Fundamental Rules, the petitioner is entitled to 1/5 of the pay drawn in the regular post or 1/2 of the minimum pay of the additional post, whichever is less for a period of five months. As stated earlier, the pay scale has been revised with effect from 01.01.2006 and monetary benefit



was directed to be given with effect from 01.01.2007. The petitioner was holding full additional charge from 15.03.2007 to 13.09.2007 ie., more than five months. It is not in dispute that as per the Rule 49(1)(iii), the petitioner is entitled to get additional pay for five months. As the pay scale has been revised with effect from 01.01.2006, it should be taken that the petitioner had worked in the revised scale of pay in the existing post as well as in the additional post and hence, the petitioner is entitled to get charge allowance in the revised scale of pay.

8. In view of the above, the respondents are directed to grant the additional pay / charge allowance to the petitioner for holding additional post in the revised scale of pay ie., as per the pay scale fixed in the VIth pay Commission. The above said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

9. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gcg

To

1.The Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
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Chennai - 600 009.

2.The Commissioner / Director of Rural Development
and Panchayat Raj,
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5.The District Treasury Officer,
Krishnagiri,
Krishnagiri District.

+1 CC to M/s.VEERA ASSPCIATES, Advocate (SR-3264[F] dated
27/01/2020)

+1 CC to MR.P.GUNASEKARAN, Advocate (SR-3273[F] dated
27/01/2020)

+1 CC to SPL.GP (SR-3155[F] dated 27/01/2020)

Order made in
W.P.(MD) No.15486 of 2013
24.01.2020

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