

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.7406 of 2014

R.Alphonse

... Petitioner

Vs

1. The Secretary to Government,  
Home [Prison] Department,  
Fort St. George, Chennai - 600 009.

2. The Addl. Director General and  
Inspector General of Prison,  
Chennai - 600 008.

3. The Chief Probation Superintendent,  
Chennai - 600 008.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for entire records pertaining to the Government letter No.46136/Prisons/2011-12/Home Department dated 14.09.2012 of the first respondent and quash the same as illegal and unconstitutional and consequently directing the respondents to pay additional pay to the petitioner for holding of full additional charge of the post of Probation Officer, Nagercoil for a period from 27.09.2006 to 31.05.2008 while he was functioning as Probation Officer, Tenkasi.

For Petitioner : Mr.J.Nagarajan

For Respondents : Mr.A.M.Ayyadurai  
Government Advocate

## O R D E R

The order of rejection dated 14.09.2012 rejecting the claim of the writ petitioner for full additional charge allowance is under challenge in the present writ petition.

2.The petitioner was working as Probation Officer at Tenkasi. As per the directions of the Chief Probation Superintendent, Chennai, the petitioner was directed to take full additional charge of post of Probation Officer at Nagercoil on 27.09.2006. Accordingly, the petitioner took full additional charge of post of Probation Officer at Nagercoil and holding the said post from 27.09.2006 to 31.05.2008 [i.e. till the retirement of the writ petitioner on 31.05.2008].

3.The writ petitioner submitted an application for grant of full additional charge allowance and the said application was not considered by the competent authorities. The first respondent rejected the claim of the writ petitioner on the ground that the full additional charge allowance is to be granted only for 150 days and the said allowance was already granted in favour of one Mr.Arunachalampillai, who was holding the full additional charge prior to the writ petitioner. Once the said benefit was extended to the predecessor of the writ petitioner, the said benefit cannot be extended.

4.This Court is of the considered opinion that such a decision taken is directly in violation of the settled principles. Once the full additional charge allowance is granted to an officer, the said benefit cannot be denied to the other officer who was also holding the post of full additional charge of post of Probation Officer. It is not in dispute that the petitioner was holding the post of Probation Officer as full additional charge and therefore the said benefit granted to the other officer, namely, Mr.Arunachalampillai cannot be denied to the writ petitioner. The ceiling of 150 days fixed by the respondents have no nexus between the purpose and object sought to be achieved and such a policy is resulted in discrimination amongst the officials and therefore, the said policy also cannot be adopted for the purpose of extending the benefit of full additional charge allowance to the officials who all are permitted to hold the said post beyond the period of 150 days. It is an administrative exigency which resulted in continuance of full additional charge. When the competent authority directed the petitioner to hold the full additional charge of post of Probation Officer and he held the post, thereafter the benefit attached to the said post cannot be denied to the petitioner.

5.The learned Government Advocate brought to the notice of this Court that subsequently the Government issued a notification amending the Rules in G.O(Ms).No.122 Personnel and Administrative Reforms [FR.IV] Department dated 03.10.2011 and the said amendment reads as follows:

"In the said Rules, in rule 49 in clause (1), for sub-clause (iii), the following sub-clause shall be substituted, namely:-

"(iii) Additional pay for holding full additional charge shall be granted at the rate of the one fifth of the pay drawn in the regular post or half of the minimum pay of the additional post, whichever is less. The additional pay shall be sanctioned irrespective of the duration of the charge held or the number of posts of additional charge held by Group A and B Officers only."

6.Though the Rule was amended with effect from 03.10.2011 the case of the petitioner is to be considered as denial of allowance resulted in discrimination in view of the fact that the very same benefit was already granted to the other officer Mr.Arunachalampillai. Therefore, the petitioner is also entitled for the benefit of full additional charge allowance.

7.No doubt the Rule was amended prospectively. However, this Court is inclined to consider the claim of the petitioner on the ground that the petitioner was discriminated with reference to the benefit of the full additional charge allowance and on the ground of discrimination, the petitioner is entitled for the relief. Accordingly, the order impugned passed by the first respondent in Letter No.46136/Prisons/2011-12/Home Department dated 14.09.2012 is quashed and the respondents are directed to calculate the eligible full additional charge allowance as applicable to the writ petitioner for the period during which he was holding the post of Probation Officer as full additional charge and accordingly settle the said amount within a period of twelve weeks from the date of receipt of a copy of this order.

8.With the above direction, the writ petition is allowed.  
No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

cse

To

1.The Secretary to Government,  
Home [Prison] Department,  
Fort St. George, Chennai - 600 009.

2.The Addl. Director General and  
Inspector General of Prison,  
Chennai - 600 008.

3.The Chief Probation Superintendent,  
Chennai - 600 008.

+1cc to Mr.J.Nagarajan, Advocate SR. No. 38897  
+1cc to Government Pleader SR. No. 39012

W.P.No.7406 of 2014

GSM (CO)  
PR (11/07/2022)