



W.P. No.29260 of 2016

**THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 06.08.2025

CORAM:

**THE HON'BLE MR. JUSTICE K. SURENDER**

W.P. No.29260 of 2016  
and  
W.M.P. No.25296 of 2016

A. Jothinathan

... Petitioner

-Vs-

1. The Principal Secretary to Government  
Commercial Taxes and Registration (E2) Department,  
Fort St. George,  
Chennai – 09.

2. The Secretary,  
Personal and Administration Reforms Department,  
Fort St. George,  
Chennai – 09.

3. The Chairman,  
Tamil Nadu Sales Tax Appellate Tribunal,  
City Civil Court Building,  
Chennai – 104.

... Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, for Writ of Certiorarified Mandamus to call for the records in



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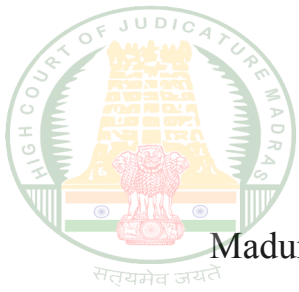
G.O. (D) No.54, dated 11.02.2014 passed by the 1<sup>st</sup> respondent and the order of the 2<sup>nd</sup> respondent in Letter No.2469/E2/2014-8, dated 19.01.2016 and quash the same and further direct the respondents to pay the Full Additional Charge allowances as per the amendment in FR 49(1) (iii) by G.O. Ms. No.122, dated 03.10.2011 for the post of Appellate Deputy Commissioner (CT), Thirunelveli from the period 3.10.2011 to 21.08.2012 and as Appellate Deputy Commissioner (CT), Vellore, Madurai (South), Madurai (North), Trichy, Cuddalore and Chennai for the period 03.10.2011 to 31.07.2012.

For Petitioner : Ms. R.T. Shyamala  
For Respondents : Ms.K. Vasanthamala,  
Standing Counsel for R1 & R3  
Mr.T. Chandrasekaran,  
Spl. Govt. Pleader for R2

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### **ORDER**

This writ petition has been filed to call for the records in G.O. (D) No.54, dated 11.02.2014 passed by the 1<sup>st</sup> respondent and the order of the 2<sup>nd</sup> respondent in Letter No.2469/E2/2014-8, dated 19.01.2016 and quash the same and further direct the respondents to pay the Full Additional Charge allowances as per the amendment in FR 49(1) (iii) by G.O. Ms. No.122, dated 03.10.2011 for the post of Appellate Deputy Commissioner (CT), Thirunelveli from the period 3.10.2011 to 21.08.2012 and as Appellate Deputy Commissioner (CT), Vellore,



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Madurai (South), Madurai (North), Trichy, Cuddalore and Chennai for the period 03.10.2011 to 31.07.2012.

2. It is stated in the affidavit that the petitioner while working as Appellate Deputy Commissioner in Kanchipuram was given additional charge to various places in Tamil Nadu. Subsequent to the said assignment of work, the petitioner travelled to various places and discharged his duties, thereby he was entitled to claim allowance for the additional charge. Thus, it is stated that the petitioner held the post of Appellate Deputy Commissioner on Full Additional Charge on various spells between 12.10.2010 to 29.08.2012 at various places. Hence, he submitted 14 claims before the 1<sup>st</sup> respondent, through the 3<sup>rd</sup> respondent, commencing from 03.10.2010 i.e., the date of amendment of FR 49, vide G.O. No.122, dated 03.10.2011. But, the eight spells were rejected by the 1<sup>st</sup> respondent holding that pursuant to the orders passed by the 3<sup>rd</sup> respondent, which is prior to the amendment i.e., 03.10.2011.

3. It is the contention of the petitioner that as on the date of introduction of the amendment, the petitioner held those additional posts. Aggrieved by the rejection order issued by the 1<sup>st</sup> respondent, he preferred an appeal before the 2<sup>nd</sup> respondent. However, it is the

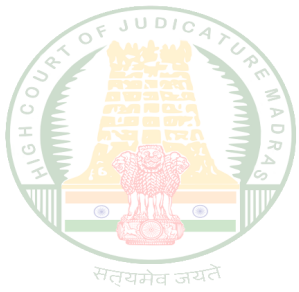


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grievance of the petitioner that without considering the new amendment, the 2<sup>nd</sup> respondent has issued the Communication, dated 19.01.2016.

Challenging the G.O. No.54, dated 11.02.2014 as well as the Communication issued by the 2<sup>nd</sup> respondent, dated 19.01.2016, this writ petition has been filed.

4. The learned counsel for the petitioner would submit that the respondents 1 and 2 have failed to take into account the amendment made in FR 49(1)(iii), vide G.O. Ms. No.122, dated 03.10.2011 and thereby they rejected the petitioner's claim for additional allowance stating that the petitioner held the additional charge of the post, prior to amendment, which is erroneous in nature. He further argued that wherever the petitioner worked on additional charge, he has to be paid in accordance with the amended provision. He drew the attention of this Court to relevant clause in FR-49(i) (iii), prior to amendment as well as subsequent to amendment. He vehemently argued that the amendment is prospective in nature and thus the G.O., dated 11.02.2014 passed by the 1<sup>st</sup> respondent and the consequent Communication of the 2<sup>nd</sup> respondent, dated 19.01.2016 have to be set aside. In the light of the above, he prays for allowing of this writ petition.



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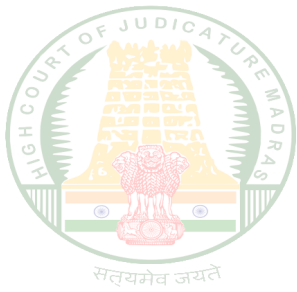
5. On the other hand, Ms.K. Vasanthamala, learned Standing Counsel for the respondents 1 and 3 would submit that the maximum period for holding an additional charge would be five months. According to the provision, prior to amendment, even if a person discharged his duties as additional charge over and above the period of five months, the pay would be restricted to five months. Hence, G.O. No.54, dated 11.02.2014 as well as the letter, dated 19.01.2016 issued by the respondents 1 and 2 is legally sustainable and prays for dismissal of this writ petition.

6. Heard the submissions made by the learned counsel on either side.

7. It is not in dispute that the petitioner held the additional charge of the posts for specified periods at various places. This Court perused the relevant clause of FR-49(i)(iii), prior to amendment as well as subsequent to amendment and the relevant clause is extracted hereunder :-

**Prior to amendment**

*Additional Pay for holding full additional charge shall be granted 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. Additional pay shall not be paid for*



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*the period of holding full additional charge in excess of five months.*

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**Amendment, vide G.O. (MS) No.122, dated 03.10.2011**

### AMENDMENT

*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 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”.*

8. As seen from the amendment, the restriction of pay, i.e., payment for the additional post for a period of five months, is removed, vide G.O. Ms. No.122, dated 03.10.2011. It is noted that there is no such restriction in the amended provision. The aforesaid provision i.e., amendment is prospective in nature. Normally, in the event of an employee working in the additional post, he would be entitled for payment of additional charge allowance. Once the services of the petitioner were utilised by the Department i.e., for the additional charge of post, the Department cannot turn around and say that the pay for



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additional post is restricted to five months, that too, when the amended provision vide G.O. Ms. No.122, clearly stipulates that the petitioner is entitled to claim the additional pay for holding full additional charge. Since the time restriction was absent in the amended provision, though the relevant restriction was earlier mentioned in the provision, this Court is of the considered view that the claim made by the petitioner after amendment is applicable. Even though the petitioner was given additional charge, prior to G.O. that came into effect, the respondents / Department is bound to pay the amount in accordance with the amended provision i.e. from 03.10.2011 if the period of additional charge exceeds five months after the amended provision came into force. To illustrate, if the petitioner was appointed five months prior to the amendment, but continued to work in the additional post after the amendment, the petitioner has to be paid for the period beyond five months and cannot be restricted to the payment for five months.

9. For the reasons aforesaid, the impugned G.O. No.54, dated 11.02.2014, dated 11.02.2014 as well as the Communication, dated 19.01.2016 issued by the 2<sup>nd</sup> respondent are hereby set aside. The petitioner shall submit a fresh calculation to the respondents, within a



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period of two weeks from the date of receipt of a copy of this order. On such receipt, the respondents shall consider the same in accordance with law and directed to pay the outstanding amount to the petitioner, within a period of eight weeks thereafter.

10. With the aforesaid directions, this writ petition stands allowed.

No costs. Consequently, connected miscellaneous petition is closed.

**K. SURENDER, J.**

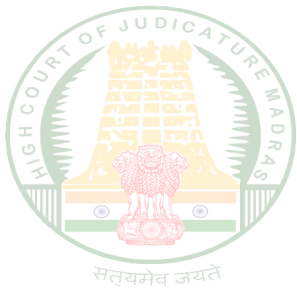
06.08.2025

Internet: Yes/No  
Index: Yes/No  
Speaking/Non-speaking order  
Neutral Citation : Yes/No  
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To

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Commercial Taxes and Registration (E2) Department,  
Fort St. George,  
Chennai – 09.

2. The Secretary,  
Personal and Administration Reforms Department,  
Fort St. George,  
Chennai – 09.



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**K. SURENDER, J.**

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3. The Chairman,  
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