

# A.Bose vs The Commissioner on 4 August, 2021

**Author: S.S.Sundar**

**Bench: S.S.Sundar**

W.P. (MD) .No.565

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2021

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) .No.5651 of 2013

and

M.P(MD) No.2 of 2013

A.Bose

.. Petitione

Vs.

1.The Commissioner,  
Food Safety and Drug Administration Department,  
5th Floor, DMS Complex,  
Thanapattai,  
Chennai.

2.The Director and Additional Commissioner,  
Food Safety and Drug Administration Department,  
5th Floor, DMS Complex,  
Chennai.

3.The Designated Officer  
Food Safety and Drug Administration Department,  
Collector Office Campus,  
Virudhunagar District.

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<https://www.mhc.tn.gov.in/judis/>

W.P. (MD) .No

4.The State of Tamil Nadu  
rep. by its Principal Secretary,  
Health and Family Welfare Department,  
Secretariat,  
Chennai - 600 009.

.. Respon

(4th respondent is impleaded vide Court order, dated 14.06.2021)

PRAAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned orders in Na.Ka.No.1662/UPathasa/2013-Iru.1, dated 27.02.2013 and consequential communication in Na.Ka.No.1662/UPathasa/2013-Iru.1, dated 02.03.2013 on the file of the third Respondent and quash the same as illegal.

For Petitioner : Mr.G.Karthick  
for Mr.T.Lajapathi Roy

For Respondents : Mr.M.Lingadurai,  
Government Advocate

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#### ORDER

The petitioner has filed the above Writ Petition to quash the impugned orders in Na.Ka.No.1662/UPathasa/2013-Iru.1, <https://www.mhc.tn.gov.in/judis/> dated 27.02.2013 and consequential communication of the third respondent in Na.Ka.No.1662/UPathasa/2013-Iru.1, dated 02.03.2013.

2. By the impugned order, dated 27.02.2013, the petitioner's claim for Fixed Traveling Allowances and Leprosy Allowances was considered and it is stated that the payment of these allowances to the petitioner and others will be considered after getting instructions from the Government. The impugned order only indicates that the petitioner's representation is now under consideration by the Government. The petitioner in the writ petition joined in the Department of Medical Services as a Leprosy Inspector, during the year 1989. The petitioner's post was redesignated as Health Inspector Grade-IB in the department of Public Health and Preventive Medicine as per G.O.Ms.No.320, Health and Family Welfare (G-1) Department, dated 27.06.1997. Again the post of Health Inspector Grade-IB was redesignated as Health Inspector Grade-I in the same department subsequent to the Government Order in G.O.Ms.No.382, dated 12.10.2007.

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3. After the enforcement of Food Safety and Standards Act, 2006, the petitioner was redesignated as Food Safety Officer in the department now known as Food Safety and Drug Administration. The petitioner is now working as Food Safety Officer. Since the petitioner was getting Fixed Travel Allowances and Leprosy Allowances, while he was working as Health Inspector, the petitioner and others have submitted a representation to extend the benefit of allowances, even though the designation of the petitioner now changed as Food Safety Officer. The petitioner's representation was not negated by the impugned order. Since the impugned order only indicates that a proposal sent in this regard is pending before the Government for consideration and that based on the policy decision of the Government, the entitlements of the petitioner to get Fixed Travelling Allowances and Leprosy Allowances will be considered.

4. In the counter-affidavit, it is stated that the Government by letter, dated 23.05.2018, has clarified the position that the Health <https://www.mhc.tn.gov.in/judis/> Inspector Grade-I and Grade-IB are not eligible for any Special Allowances/Leprosy Allowances.

5. In the counter-affidavit, the letter of Government, dated 23.05.2018 is referred to. However, in the typed-set filed by the respondents, the letter dated 26.09.2018 issued by the second respondent is referred to.

6. The clarification order issued by the Government which is produced by the learned Government Advocate, is not the subject-matter in this writ petition. Since the Government by way of clarification has given some reasons, this Court is of the view that the writ petition can be closed, by granting liberty to the petitioner to challenge the clarification order issued by the Government by letter, dated 23.05.2018 and the letter, dated 26.09.2018. The petitioner is at liberty to raise all the grounds available to him including the points that have been raised in the present writ petition.

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7. Accordingly, the writ petition is closed with a liberty to the petitioner, to challenge the clarification letters aforesaid. No costs. Consequently, connected miscellaneous petition is closed.

04.08.2021

Index	: Yes / No
Internet	: Yes / No
RM	

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the

correct copy, shall be the responsibility of the advocate/litigant concerned.

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1.The Commissioner, Food Safety and Drug Administration Department, 5th Floor, DMS Complex, Thanapattai, Chennai.

2.The Director and Additional Commissioner, Food Safety and Drug Administration Department, 5th Floor, DMS Complex, Chennai.

3.The Designated Officer Food Safety and Drug Administration Department, Collector Office Campus, Virudhunagar District.

4.The Principal Secretary, Health and Family Welfare Department, Secretariat, Chennai - 600 009  
<https://www.mhc.tn.gov.in/judis/> S.S.SUNDAR, J.

RM ORDER MADE IN 04.08.2021 <https://www.mhc.tn.gov.in/judis/>