

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.2636 of 2016

K.G.Umapathy

... Petitioner

Vs.

1.The Commissioner of Municipal Administration,
Chepauk, Chennai-600 005.

2.The Commissioner,
Karur Municipality,
Karur.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st respondent to pass appropriate orders on the representation of the petitioner dated 18.07.2015 within a reasonable period.

For Petitioner : Mr.T.Ranganathan

For respondents : Mr.K.Khananjayan, Spl GP (For R1)
Mr.P.Srinivas (For R2)

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Mandamus, directing the 1st respondent to pass appropriate orders on the representation of the petitioner dated 18.07.2015 within a reasonable period.

2.It is stated by the petitioner that he was appointed as Assistant Section Officer in the Tamil Nadu Secretariat Service on 18.05.1981 and subsequently, he was appointed as Municipal Commissioner, Grade-II in the year 1995 by transfer of service. The petitioner served for nearly 16 years as Municipal Commissioner and he was due to retire from service on 28.02.2011 on superannuation. But, the Government has not permitted the petitioner to retire from service and placed him under suspension vide G.O.(2D).No.27, Municipal Administration and Water Supply Department, dated 24.02.2011, contrary to the instructions issued by the Government in G.O.Ms.No.144, Personnel and Administrative Reforms Department, dated

08.06.2007. The petitioner was placed under suspension based on the pending audit objections from the year 1995 till his retirement on 28.02.2011. It is further stated by the petitioner that the 1st respondent is duty bound to sanction the subsistence allowance in accordance with the provisions under Rule 53 of the Tamil Nadu Fundamental Rules, consequent to the orders issued by the Government in G.O.(2D).No.27, Municipal Administration and Water Supply Department, dated 24.02.2011, placing him under suspension on the eve of his retirement on 28.02.2011. As per Rule 53 of the Tamil Nadu Fundamental Rules, the subsistence allowance should be 50% of the last pay drawn or not exceeding the pension permissible under the Rules. As per the proceeding of the Regional Director of Municipal Administration, Thanjavur, issued vide Roc.No.4079/2009/A3, dated 14.07.2009, the petitioner's pay has been fixed at Rs.26,980/- + Grade Pay and Allowances in the post of Special Grade Municipal Commissioner as on 08.11.2008. His next increment in the revised scale of pay was on 01.07.2009 which was also not sanctioned to the petitioner. As per the Pay Certificate issued by the Karur Municipality dated 23.02.2011, the total emoluments received by the petitioner was Rs.45,122/-. The 1st respondent by his letter in Na.Ka.No.22451/2015/RTI(C1)-1, dated 24.11.2015, has clearly stated that as on the date of retirement namely 28.02.2011 including the two increments due on 01.07.2009 and 01.07.2010, the basic pay of the petitioner would be Rs.30,440/- + Grade Pay and Allowances which is more than Rs.50,000/-. Based on the above said last pay drawn certificate, the 1st respondent ought to have sanctioned the subsistence allowance of Rs.25,000/- + usual allowances as admissible under the Fundamental Rules, but the petitioner has been paid with only a sum of Rs.12,125/- as Subsistence Allowance from 01.03.2011, which is contrary to the provisions under Rule 53 of the Tamil Nadu Fundamental Rules. In this regard, the petitioner has made a representation to the 1st respondent on 18.07.2015 seeking to pay the 50% of the last pay drawn salary, not exceeding the pension eligible from 01.03.2014. But, the petitioner's representation was not considered by the 1st respondent. Hence, the petitioner has come forward with the present writ petition.

3. Heard both sides and perused the materials available on record.

4. Considering the limited scope of the prayer sought for by the petitioner in this writ petition, without expressing any opinion on the merits of the claim made by the petitioner, this Court directs the 1st respondent to consider the representation dated 18.07.2015 given by the petitioner and to pass orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

ssv

To

1.The Commissioner of Municipal Administration,
Chepauk, Chennai-600 005.

2.The Commissioner,
Karur Municipality,
Karur.

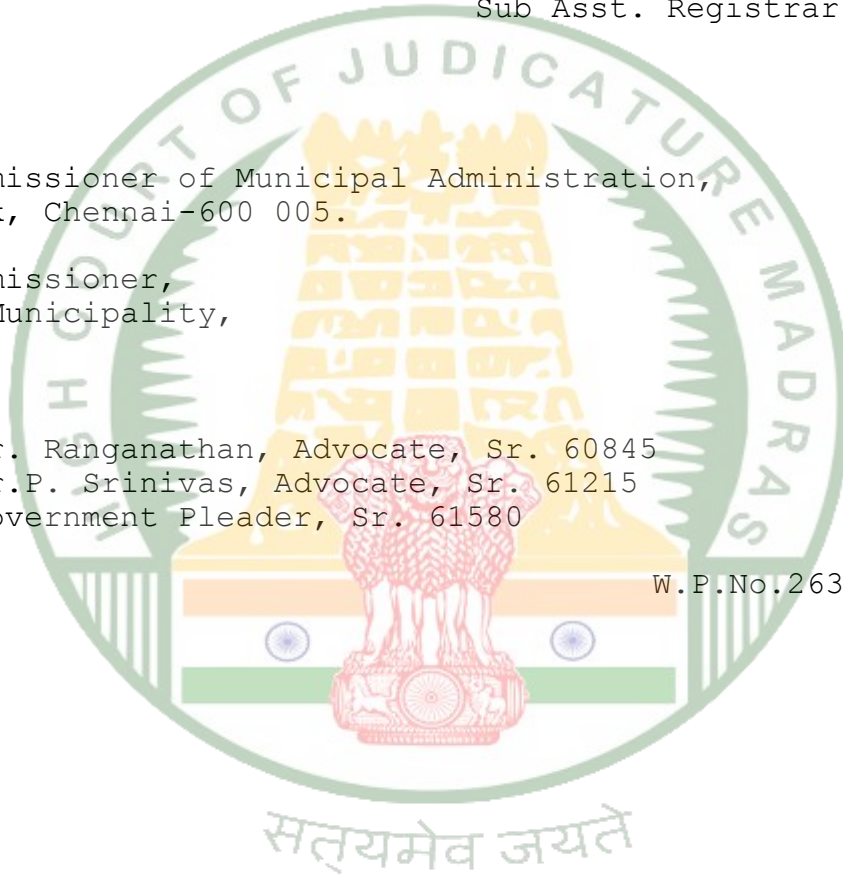
1 cc to Mr. Ranganathan, Advocate, Sr. 60845

1 cc to Mr.P. Srinivas, Advocate, Sr. 61215

1 cc to Government Pleader, Sr. 61580

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MG (CO)
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