



W.P.(MD)No.22600 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2022  
CORAM

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P.(MD)No.22600 of 2017**  
**and**  
**W.M.P.(MD).No.18886 of 2017**

K.A.Mohideen Abdul Kader

... Petitioner

Vs.

- 1.The Secretary to Government,  
Municipal Administration and Water  
Supply Department,  
Fort St.George,  
Chennai – 600 009.
- 2.The Commissioner of Municipal Administration,  
Chepauk,  
Chennai – 600 005.
- 3.The Director of Local Fund Audit,  
Kuralagam, Chennai – 600 108.
- 4.The Assistant Director of Local Fund Audit,  
Municipal Pension,  
Kuralagam,  
Chennai – 600 108.
- 5.The Commissioner,  
Sengottai Municipality,  
Sengottai,  
Tiruneveli District.

... Respondents



W.P.(MD)No.22600 of 2017

WEB COPY

**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 order of the fourth respondent in respect of clause 4 of Annexure in Pension sanctioned order in Ni.Moo.No.48880/MPV(3)/2013 dated 23.01.2014 and consequential order in respect of Clause 2 of his proceedings in Moo.Mu.No. 9081/Na.O.Sa3/2014 dated 13.05.2014 and quash the same and directing the respondents to re-fix the petitioner's pension by including the Weightage period of 5 years and to disburse the arrears of the Pensionary and Monetary benefits with interest forthwith to the petitioner.

For Petitioner : Mr.J.Parekhkumar

For R-1 to R-4 : Mrs.D.Farjana Ghoushia,  
Special Government Pleader.

For R-5 : Mr.M.Saravana Kumar

### **ORDER**

This Writ Petition has been filed to quash the impugned order dated 23.01.2014 and consequential order dated 13.05.2014 and directing the respondents to re-fix the petitioner's pension by including the Weightage period of 5 years and to disburse the arrears of the Pensionary and Monetary benefits with interest forthwith to the petitioner.

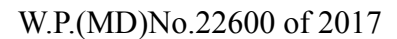


W.P.(MD)No.22600 of 2017

WEB COPY

2. The brief facts as stated in the affidavit are that the petitioner was appointed in the Municipal service on 26.04.1991. While in service the petitioner had applied for Voluntary Retirement from service on 30.04.2013. The petitioner is seeking the benefits of Rule 56(3)(d) of Fundamental Rules, wherein, the Weightage of 5 years period will be added to the service of the petitioner while calculating the pensionary benefits and other benefits. The only ground for which the weightage was rejected is that the respondents ought to have considered the voluntary retirement application within three months as per the said fundamental rules, but the respondents have considered beyond the period of three months, i.e. the respondents have considered within four months. The respondents submitted that the Government alone is the authority to condone the delay if it is beyond the prescribed period of three months.

3. The Learned Counsel for the petitioner submitted that as per Rule 56(3) (f), if the authority has not considered within the period as prescribed in the above clause, then it amounts to deemed consideration. Therefore, there is no question of condoning the delay at all. Based on the deemed provision, the petitioner's application ought to have been considered as deemed permission granted.



5. At this juncture, the Learned Counsel appearing for the petitioner seeks interest. The respondents submitted that the Government alone has power to grant approval and hence prayed to disallow the interest. Since the other terminal benefits were disbursed to the petitioner and the disputed period is resolved through this order, the petitioner is not entitled to the interest and the plea of interest is denied.



W.P.(MD)No.22600 of 2017

WEB COPY

5. With the above direction, this Writ Petition is partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

**14.10.2022**

Index : Yes / No

Internet : Yes

Nsr

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- 5.The Commissioner,  
Sengottai Municipality,  
Sengottai,



W.P.(MD)No.22600 of 2017

WEB COPY

Tiruneveli District.

**S.SRIMATHY, J**

Nsr

Order made in  
W.P.(MD)No.22600 of 2017

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