



W.P.No.1505 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.03.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.No.1505 of 2015

S.Velayutham

.... Petitioner

vs

1. The Commissioner,  
Chennai City Municipal Corporation,  
Rippon Building,  
Chennai - 600 003.

2. The Assistant Commissioner,  
Chennai City Municipal Corporation,  
Old Zone 10, New Zone, 13,  
No.115, Muthulakshmi road,  
Adyar,  
Chennai- 600 020.

3. The Assistant Revenue Officer,  
Chennai City Municipal Corporation,  
Old Zone 10, New Zone 13,  
No.115, Muthulakshmi road,  
Adyar,  
Chennai - 600 020

.... Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus to direct the respondents to disburse the balance 25% of the retirement benefits amount i.e., Rs.63,855/(Rupees Sixty Three Thousand Eight Hundred and Fifty Five only) and the revised sixth pay commission



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amount, Rs.17,429/- (Rupees Seventeen Thousand Four Hundred and Twenty Nine Only) totally, Rs.81284/- (Rupees Eighty One Thousand Two hundred and Eighty four only) which are all entitled by the petitioner.

For Petitioner : Mr.A.Kumararaja

For respondents : Mr.G.T.Subramanian for R1 & R2  
No appearance for R3

### ORDER

This writ petition has been filed to direct the respondents to disburse the balance 25% of the retirement benefits amount i.e., Rs.63,855/- and the revised sixth pay commission amount i.e., Rs.17,429/-, totally Rs.81,284/-, which the petitioner is entitled to.

2. Heard the learned counsel for the petitioner and the learned counsel appearing for the 1st and 2nd respondents.

3. The petitioner was appointed as Attender in the Chennai City Municipal Corporation on 01.12.1968 and after merger with Corporation of Chennai, he was promoted to Junior Assistant, Assistant and License Inspector and he was further promoted as Assessor from 07.09.2006 to 31.01.2007 and superannuated on 31.01.2007. The petitioner was allowed to retire from service vide proceedings dated 20.03.2007. However, 25% of the amount from his retirement benefits has been retained by the respondent Chennai City Municipal Corporation. The 2nd respondent issued proceedings dated



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22.07.2010 stating that there was an audit objection for the period from 2004-2005 and for 2005-2006 and hence, 25% of the retiral benefits has been retained. The petitioner has also paid the audit objection amount on 16.06.2011 and got the receipt for the same.

4. Learned counsel for the respondents 1 and 2 would submit that as there was some balance amount in the collection of tax, there was audit objection and therefore, 25% of the petitioner's retirement amount was withheld to adjust the same.

5. This Court considered the submissions made on either side and perused the materials available on record.

6. At this juncture, it is to be pointed out that the employer is not entitled to withhold the retiral benefits viz., GPF, encashment of earned leave etc. even the employee is facing departmental action at the time of his superannuation. In the present case, the petitioner has also paid the audit objection amount of Rs.1,699/- for the period 2004-2005 and on payment of the same, the audit objection was also cleared. Though the petitioner approached the respondents office to disburse his balance retirement benefits and the revised sixth pay commission amount, there was no reply from the respondents till date. The respondents have no power to withhold the personal benefits due to the employee even if he/she is subjected to disciplinary



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action. Therefore, this Court is of the opinion that the petitioner is entitled for the disbursement of balance 25% of the retirement benefit amount along with interest at 7.5% per annum. The respondents are directed to disburse the same within a period of four weeks from the date of receipt of a copy of this order.

7. The Writ petition is disposed of accordingly. No costs.

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Index:Yes/No  
Speaking/Non-speaking order  
vsi

To

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2. The Assistant Commissioner,  
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Old Zone 10,  
New Zone, 13,  
No.115, Muthulakshmi road,  
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WEB COPY

3. The Assistant Revenue Officer,  
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Old Zone 10, New Zone 13,  
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**J.NISHA BANU,J.**

vsi

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