

WP(MD)No.5883 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.5883 of 2022
and
WMP(MD)No.4639 of 2022**

M.Shahul

... Petitioner

Vs

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Chennai.
- 2.The Director of Local Fund Audit,
(Municipal Pension),
Office of the Director of Local Fund Audit,
Kuralgam, 4th Floor,
Chennai – 108.
- 3.The Commissioner of Municipal Administration,
Office of the Commissioner of Municipal Administration,
Chennai.
- 4.The Zonal Director of Municipal Administration,
Office of the Zonal Director of Municipal Administration,
Madurai.
- 5.The Commissioner,
Bodinayakkanoor Municipality,
Bodi, Theni District.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondents to disburse the revised terminal benefit to the petitioner on the basis of the Special Compensatory Allowance availed to the petitioner in the cadre of Chairman within the period that may be stipulated by this Court.

For Petitioner : Mr.Mohammed Imran
For Respondents : Mr.G.V.Vairam Santhosh,
Nos.1 to 4 Additional Government Pleader
Respondent : No representation
No.5

ORDER

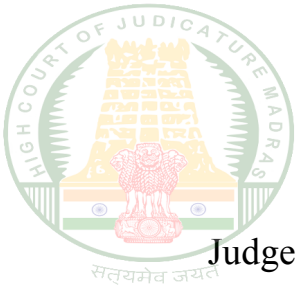
The petitioner is a retired employee of the 5th respondent Municipality. While he was working as a Peon in the 5th respondent Municipality he was sanctioned with Special Compensatory allowance of 5% from 01.08.1992. The petitioner got retired on 28.02.2009. While calculating the eligible terminal benefits for the petitioner an objection was made on the payment of special compensatory allowance which was provided to this petitioner. Therefore the Accountant General has raised a query and withheld a sum of Rs.52,234/- on the ground that the petitioner was not entitled for the special compensatory allowance.



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2.The petitioner has made a representation to the Assistant Director of Local Fund Audit and also to the Commissioner Bodinayakkanur Municipality to refund the amount of Rs.52,234/- which has been withheld from his terminal benefits. The Commissioner of Bodinayakkanur has also made a request to sanction this amount to the petitioner by his letter dated 03.04.2014 by referring to G.O.Ms.No.239 Finance (Pay Cell) Department dated 22.07.2013. However, the Assistant Director of Local Fund Audit by an order dated 15.05.2014 rejected the proposal made by the Commissioner that this petitioner is not entitled for the special compensatory allowance. This order of the Assistant Director of Local Fund Audit dated 15.05.2014 was challenged by this petitioner in WP(MD)No.1157 of 2016. The same was allowed in favour of the petitioner and the order dated 15.05.2014 was set aside with a direction to the respondents therein to pay the withheld amount of Rs.52,234/- to the petitioner within a period of four weeks from the date of that order. As against this order the Director of Local Fund Audit has also filed an appeal before the Division Bench in WA(MD)No.800 of 2017. The Division Bench has concurred with the view of the learned Single

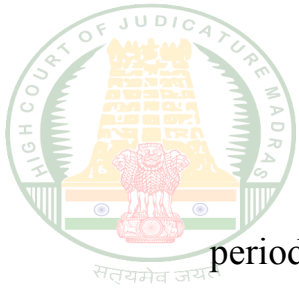


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Judge that there was no misrepresentation on the part of the petitioner and held that withholding the amount of Rs.52,234/- from the terminal benefits payable to the petitioner amounts to illegal recovery and dismissed the writ appeal.

3.Even after the orders of the Division Bench, the amount which has been withheld from the petitioner's terminal benefits were not disbursed and therefore, the petitioner has submitted a representation to disburse the withheld special compensatory allowance and it was not considered. Therefore the petitioner was constrained to file this writ petition for a direction to the respondents to disburse withheld amount.

4.Though this writ petition was admitted and notice was ordered as early as on 18.11.2022, the respondents have not taken any decision on the claim of this petitioner. Therefore, this writ petition is disposed with a direction to the respondents to take a call on the petitioner's representation in the light of the orders passed by this Court in WP(MD) No.1157 of 2016 dated 20.01.2016 and the orders of the Division Bench in WA(MD)No.800 of 2017 dated 06.07.2017 within a



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period of twelve weeks from the date of receipt of copy of this order.

No Costs. Consequently connected miscellaneous petition is closed.

21.01.2025

DSK

To

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B.PUGALENDHI.J.,

DSK

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