

O/o the Commissioner of Municipal
Administration, Chepauk, Chennai-5

C I R C U L A R

Roc. No. 26372/2004/C1

Dt: 05.05.2008

Sub: Establishment – Fixation of pay to the Municipal Commissioners who are working in higher grade Municipalities on working arrangement as per the direction of the High Court of Madras – Orders issued – Certain instruction – Regarding.

Ref: 1) Government Letter (Ms) No. 57, dated 03.04.2008
2) G.O. (Ms) No. 1, Municipal Administration & Water Supply Department, dated 04.01.1993.

Based on the direction of the Hon'ble High Court of Madras. Government in the reference 1st cited, have ordered to fix the pay to the Municipal Commissioner who were working in higher grade Municipalities on working arrangement (copy enclosed).

As per the power delegated to the Regional Directors of Municipal Administration in G.O. 2nd cited, the Regional Directors of Municipal Administration are instructed to fix the pay to the Municipal Commissioner including retired Municipal Commissioners who have worked / are working in the higher grade Municipalities on working arrangement to fix the pay of all the individuals who were appointed under General Rule 10 of Tamil Nadu State and Subordinate Service Rule in the elevated post under FR 22B in the respective post.

The Regional Directors of Municipal Administration are also instructed that a copy of the pay fixation proceedings may be sent to this office.

The receipt of this circular should be acknowledged by return of post.

Encl: As above.

for Commissioner of Municipal
Administration

To
All the Regional Directors of Municipal
Administration.

Copy to:
All Municipal Commissioners
(Excluding IIIrd Grade Municipalities.)

All Commissioners of ~~the~~ Corporations.



Municipal Administration &
Water Supply(ME.1) Department,
Secretariat, Chennai - 600 009.

Letter(Ms) No.57 Dated 03.04.2008.

✓ C. S. M. P.
✓ J. S. W.
4/4/08

From
Thiru. K. Deenabandu, I.A.S.,
Secretary to Government.

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

All Regional Director's of Municipal Administration.

The Accountant General, Chennai - 18 / 35.

The Director of Local Fund Audit, Chennai - 600 108.

Sir,

Sub: Establishment - Fixation of pay to the Municipal Commissioners who are working in higher grade Municipalities on working arrangement as per the direction of the High Court of Madras - Orders issued.

Ref: 1) From the Hon'ble High Court, Madras Order Dated 07.04.2006 In W.P.No.31918/05 filed by Thiru. N. Rajasekaran Nair, Municipal Commissioner(Retired) and others.
2) From the Commissioner of Municipal Administration Letter No.26372/C1/2004, dated 30.10.2006, 06.11.2007 and 15.11.2007.

I am directed to invite attention to the reference first and second cited. In the reference first cited, one Thiru. N. Rajasekaran Nair, former Municipal Commissioner, Grade-III who was elevated to higher posts and 6 others filed writ petitions in the High Court of Madras in W.P.Nos.31918, 37961, 23234/06, 15275/05, 22708/06, 23642/06, 23643/06 and the Hon'ble High Court of Madras in its order dated 07.04.2006, in W.P.No.31918/05 directed the respondent to pay the salary to the petitioners for the periods they worked in the higher posts and the difference in pay shall be calculated and paid to the petitioners. In the order dated 19.04.2006, in W.P.No.37961/05, the Hon'ble High Court, Madras has also directed that the above direction relates only to the pay of the petitioners and they cannot claim any relief with regard to terminal benefits of the higher posts.

2. Pursuant to the court direction of Hon'ble High Court, Madras, the Commissioner of Municipal Administration in his letters second read above, has stated that the Municipal Commissioners who have approached the High Court were fully qualified at the time of posting them on elevation basis to higher posts and that other Municipal Commissioners posted to higher posts in similar method may also claim to fix their pay on the same analogy. He has also stated that 154 persons were elevated on working arrangement basis before and after 01.01.1996 and furnished the details of persons who worked in elevation before and after 01.01.1996 and the cost involved in the fixation of the pay of the Municipal Commissioners. The Commissioner of Municipal Administration has requested appropriate orders on the judgement of the High Court dated 07.04.2006.

3. The Government have examined the case in detail in the light of the remarks of the Commissioner of Municipal Administration. A person can be appointed to a post either as per the Special / Ad-hoc Rules governing the post and if it is not possible to make appointment as per Ad-hoc / Special Rules, temporary appointment can be made with reference to General Rule 10 of the Tamil Nadu State and Subordinate Service Rules. There is no provision to appoint them on working arrangement with the condition that they should draw pay in the lower post, in cases where appointment is made under General Rule 10, pay can be fixed under F.R. 22B and the salary paid in the higher post. So, the case can be rightly set right by treating their appointment under General Rule 10 and fixing the pay under F.R. 22B. Even with reference to the Court Order, to pay the difference in salary, pay in the higher post will have to be fixed. Fixation of pay can be done only by resorting the provisions in Fundamental Rules. If it is regulated in accordance with rules, no special order will be necessary.

4. In these circumstances, I am directed to request you to treat the appointment of Municipal Commissioner's in the higher post under General Rule 10 of the Tamil Nadu State and Subordinate Service Rules and fix the pay of all the individuals who were appointed in the elevated post under F.R. 22B in the respective posts.

5. This letter issues with the concurrence of Personnel and Administrative Reforms Department, vide its U.O.No.3576/F1/08-1, dated 18.01.2008 and Finance Department U.O.No.126290/PC/08, dated 13.03.2008.

Yours faithfully,



for Secretary to Government.

Copy to:-

The Special Personal Assistant to the Hon'ble Minister for Rural Development and Local Administration, Chennai - 600 009.

The Personnel and Administrative Reforms Department, Chennai - 600 009.

The Finance Department, Chennai - 600 009.

The Municipal Administration and Water Supply(OP.2) Department, Chennai - 600 009.