



GOVERNMENT OF KERALA

Abstract

Local Self Government Department - Ombudsman for Local Self Government Institutions - Establishment – Judgment dated 27.01.2016 in OP No.36197/2001 - Complied with- Orders issued.

LOCAL SELF GOVERNMENT (IA) DEPARTMENT

G.O.(Rt)No. 771/2018/LSGD.

Dated, Thiruvananthapuram, 22/03/2018

- Read:-
- 1) Judgment dated 24-6-2013 in WP(C)Nos. 25045/2006, 36204/2001, 35084/2001 & 36197/2001
 - 2) Common judgment dated 27.01.2016 in WA Nos. 720, 728, 756 & 775 of 2014 against the common judgment dated 24-6-2013 in OP No. 36197/2001.
 - 3) Judgment dated 03.01.2017 in IA No. 1375/2016 & C.M. Appl. No.1260/16 in WA No.775/2014
 - 4) Letter No. GE15/RE-empt/AJ/13271/823 dated, 6.2.2017 from the Accountant General
 - 5) Letter No.LC3/15-210 (395)01-02/823/ dated, 7-2-17 from the Accountant General
 - 6) Letter No. GE01/D/Court case/2017-18/746 dated 31-~~9~~2017 from the Accountant General
 - 7) Letter No.D O No.LC3/15-210 (238)08-07/997/2035 dated, 10.1.2018 from the Accountant General

ORDER

As per G.O.(P) No.154/2000/LSGD dt 29/05/2000 Govt had constituted Ombudsman for Local Self Government Institutions w.e.f 29/05/2000 and the following persons were appointed as Ombudsman and they joined their offices on 30/05/2000

1. Justice P.A.Mohammed (Judge, High Court of Kerala, Ernakulam)
2. Sri.Moidu Ahammed Nissar (District Judge on duty as Law Secretary to Government of Kerala)
3. Sri.P.S.Divakaran (District Judge on other duty as Registrar, High Court of Kerala, Ernakulam)
4. Dr.D.Babu Paul (Additional Chief Secretary to Government of Kerala)
5. Sri.K.Mohanachandran (Chairman, Kerala State Electricity Board, Thiruvananthapuram)
6. Prof.T.V.Balan, Priyendu, Chirakkal, Kannur-11
7. Prof.R.Balakrishnan Nair, 67, Vrindavan Colony, Pattom Palace.P.O, Thiruvananthapuram.

2) According to Section 271G of the Panchayath Raj Act, 1994, a person appointed as Ombudsman shall hold office for a term of five years from the date on which he enters upon his office. But it was amended in 2001 and a new Section 271G(4) was substituted which provided that Ombudsman shall hold office for a term of 3 years from the date on which he enters upon his office. Accordingly, Government dissolved the above then

Ombudsmen w.e.f. 14/09/2001. The period for which they could not complete their tenure was from 15/09/2001 to 29/05/2003.

3) The provisions of the said amendment Act 12 of 2001 were challenged by the members of the Ombudsman in the writ petitions read as 1st paper above. The Learned Single Judge held that the petitioners of the writ petitions ie. the members of the Ombudsman are entitled to the relief and compensations as prayed for. It was further held by the Learned Single Judge that being an old matter it is for the State Government to negotiate with the petitioners to have reduction of the compensation amount.

4) Government filed Writ Appeals read as 2nd paper above challenging the Judgment read as 1st paper above. While disposing the said writ appeals filed by Government, the Hon'ble High Court, as per the judgment read as 2nd paper above, held as follows:

i) The Writ Petitioners shall be entitled for salary for the period during which they could not complete their tenure of Ombudsman consequent to statutory intervention however in computing the said salary, the allowances and perks shall not be included.

ii) During the aforesaid period if any emoluments or pecuniary benefits have been received by the petitioners, the said amount shall be deducted by the State while computing the emoluments to be paid to the petitioners.

iii) The appellant shall compute the aforesaid amount and make payment of the same within a period of three months to the petitioners.

5) Government have examined the matter in detail and are pleased to sanction the emoluments due to the members of the former Ombudsman as per the computation of emoluments in the Annexure.

6) The Secretary to the Ombudsman for Local Self Government Institutions is authorised to disburse the benefits flowing out of the judgment dated 27.01.2016 to all the seven members of the dissolved Ombudsman though all are not party to the court case.

(By order of the Governor)

SINDHU L

Special Secretary to Government

Sri. P.S. Divakaran, District & Sessions Judge (Rtd), Panikkassery House,
Kaippadamugal, Vadacode (P.O), Kalamassery, Kochi – 682 021.

The Advocate General, Ernakulam(with CL)

The Secretary, Ombudsman for Local Self Government Institutions
Thiruvananthapuram. (with copies of letters read as 4-7)

All members of the former Ombudsman(through the Secretary, Ombudsman
for Local Self Government Institutions)

The Principal Accountant General (Audit/A&E), Kerala, Thiruvananthapuram.

✓ The Executive Director, IKM, Thiruvananthapuram.

FD(Ref: DEV-1/279/2017-FN dt 26/02/2017)

SF/OC.

Forwarded/By Order


Section Officer

Annexure

The Accountant General has furnished the following details regarding the emoluments payable to the Members of the Ombudsman:

Name & Designation	Rate of Emoluments due @ Rs.	Total Amount due from 14.09.2001 to 29.05.2003 Rs	Amount drawn in excess during their tenure as Ombudsman Rs.	Amount actually due after deducting the excess drawn during their period as Ombudsman Rs.
Shri. P. A. Muhammed, Rtd. Justice, High Court of Kerala	18567	380923	Nil	380923
Shri. Moidu Ahammed Nizar District Judge Rtd.	13575	279382	66162	213220
Shri. P.S. Divakaran, District Judge, Rtd	15862	326450	23631	302819

The entitlement of Shri.K. Mohanachandran and Shri. Babu Paul. I A S during the period of being kept out of the office of the Ombudsman is as follows:

Name & Designation	Details of Amount Payable
1. Sri. K, Mohana Chandran, (Former Chairman, Kerala State Electricity Board)	From 14.09.2001 to 30.05.2003, they are eligible for 13000/- per month. (While calculating the entitlements, any pecuniary benefits (other than pension and allowances authorized by the AG) received by them from the Department/ Government during the aforesaid period may be deducted.
2. Sri. Babu Paul. I A S, (Rtd Additional Chief Secretary)	

The pay details in respect of Sri.R.Balakrishnan Nair is as follows:

Date	Pay
01/01/96	12,420/-
01/02/1996	12,840/-
01/02/1997	13,260/-
20/02/1997	14,940/- (Pay fixed as per 1996 UGC rules)
01/02/1998	15,360/-
01/02/1999	15,780/-
01/02/2000	16,200/-
01/04/2001	NIL (Date of Superannuation 31/10/2000)

The details of Pay in respect of Professor T.V.Balan is as follows:

As the pay of Ombudsman is fixed at the rate of pay of High Court Judge, the existing pay at the time of assumption of charge was Rs.26,000/-. Deducting the Pension drawn by Sri.T.V.Balan (Rs.8,251/-), his pay as Ombudsman was fixed at Rs.17,749/- with effect from 31.05.2000, the date on which he assumed charge.

The entitlement of Sri.T.V.Balan during the period of being kept out of office of Ombudsman is as follows:

From 14.9.2001 to 30.5.2003, he is eligible for Rs.17,749/- per month. While calculating the entitlements, any pecuniary benefits (other than pension and allowances authorized by the AG) received by him from the Department/Government during the aforesaid period may be deducted.