



W.P.(MD).No.24196 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.24196 of 2018

S.Vellai Solai

... Petitioner

Vs.

1.The Management,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Bye-Pass Road,
Madurai-625 010.

2.The General Manager,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Bye-Pass Road,
Madurai-625 010.

3.The Assistant Manager (Establishment),
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Bye-Pass Road,
Madurai-625 010.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, to declare that the recovery of Rs.46.800/- from the petitioner herein towards unimplemented punishment of



W.P.(MD).No.24196 of 2018

increment cut by the respondents is illegal and contrary to the law and further to direct the respondents herein to repay Rs.46,800/- along with interest at the rate of 18% per annum from 12.07.2018 to till the date of re-payment.

For Petitioner : Mr.M.Jerin Mathew

For Respondents : Mr.J.Senthil Kumariah

ORDER

This Writ Petition is filed for writ of Declaration, to declare that the recovery of Rs.46.800/- from the petitioner herein towards unimplemented punishment of increment cut by the respondents is illegal and contrary to the law and further to direct the respondents herein to repay Rs.46,800/- along with interest at the rate of 18% per annum from 12.07.2018 to till the date of re-payment.

2. The petitioner was working as a Conductor in the respondent corporation. The petitioner faced charge memo, dated 03.11.2007 alleging unauthorized absence from 02.10.2007. The respondents after conducting enquiry, imposed a punishment of dismissal from service. The said punishment



W.P.(MD).No.24196 of 2018

was set aside by the Labour Court and the Labour Court modified the punishment as stoppage of five increments for three years without cumulative effect, vide order dated 07.10.2017. Then, the petitioner was reinstated in service, vide proceedings, dated 18.06.2018. The petitioner was on the verge of his retirement and has attained superannuation on 30.06.2018. Hence the order of punishment has become unimplementable order. The respondents in order to implement the said punishment, without giving any opportunity, directed to recover Rs.46.800/- from the petitioner herein towards unimplemented punishment of increment cut.

3. The issue of unimplementable punishment is already dealt with in W.A.(MD).No.1270 of 2020 and the Hon'ble Division Bench vide order dated 15.06.2021 has held that even in the standing orders of the respondent Corporation, there is no provision for recovery of any amount, if the punishment could not be implemented. The Hon'ble Division Bench has also referred to another judgment rendered in the case of Management of Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., and others Vs. J.Arumugam and another in W.A.(MD).No.465 of 2013 etc., batch dated 30.06.2017, wherein the Hon'ble Division Bench had held the respondent is not



W.P.(MD).No.24196 of 2018

empowered to recovery any amount.
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4. Therefore, this Court is inclined to allow the Writ Petition. The respondents cannot implement the said punishment, since it has become unimplementable punishment. Therefore, the recovery made by the respondents is illegal. The respondents are directed to repay the amount recovered from the petitioner i.e., Rs.46,800/- with 6% interest from 12.07.2018 to till the date of re-payment. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

5. In view of the above, this Writ Petition is allowed. There shall be no order as to costs.

27.06.2023

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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W.P.(MD).No.24196 of 2018

S.SRIMATHY, J.

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W.P.(MD).No.24196 of 2018

27.06.2023
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