



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2015

CORAM:

THE HONOURABLE DR. JUSTICE S.TAMILVANAN

and

THE HONOURABLE MR. JUSTICE V.S.RAVI

W.A. (MD) Nos.52 to 54 of 2015

and

M.P. (MD) Nos.1, 1 and 1 of 2015

W.A. (MD) No.52 of 2015:

1.The Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Rep.by its Managing Director,
Tirunelveli - 3.

2.The General Manager,
The Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Tirunelveli Region.

3.The Branch Manager,
The Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Thoothukudi City Branch,
Thoothukudi District. ... Appellants

Vs.

Mahaboo John

... Respondent

PRAYER: The Writ Appeal is filed under Clause 15 of Letters Patent Act, against the order dated 01.08.2013 passed in W.P. (MD) No.13984 of 2012 by the Learned Single Judge of this Court.

Prayer in WP(MD). 13984/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records pertaining to the order of the 2nd respondent in Proc.No.5449/Ad10/TNSTC/TNV/2012 dated 28.06.2012 in so far as ordering recovery of Rs.56,580/- from the petitioner towards non-implemented punishment of increment cut, pay reduction etc., imposed on the petitioner and also in refusing to settle the petitioner s pension benefits on the ground that the petitioner did not pay the recovery amount of Rs.56,580/-to the respondents and quash the same as illegal, arbitrary and violative of Article 14 of the Constitution of India and consequently direct the respondents to settle the petitioner pension benefits including gratuity, provident fund accumulation, commutation amount, encashment of leave salary, refund of Engineering College Contribution, refund of Medical College Contribution, refund of PT Contribution, refund of IRT Development Fund and other



attendant retiral benefits together with interest at the rate of 12% per annum payable to the petitioner with effect from 31.08.2011 to till date on which the above benefits are settled to the petitioner.

WEB COPY

W.A. (MD) No.53 of 2015:

- 1.The Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Rep.by its Managing Director,
Tirunelveli - 3.
- 2.The General Manager,
The Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Nagercoil Region,
Kanyakumari District.
- 3.The Branch Manager,
Ranithottam Branch I Depot,
Nagercoil Kanyakumari District.

... Appellants

Vs.

Sathiaseelan

... Respondent

PRAYER: The Writ Appeal is filed under Clause 15 of Letters Patent Act, against the order dated 01.08.2013 passed in W.P.(MD)No.12705 of 2012 by the Learned Single Judge of this Court.

Prayer in WP(MD). 12705/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the 2nd respondent in reference NO. 958/Sa.Pa.Pi.4/Tha.Aa.Po.Ka(Thili) Nager/2010/16 dated 25.08.2012 in so far as ordering recovery of Rs.1,08,108/- from the petitioner towards non implemented punishment of increment cut and directing the petitioner to deposit the said amount with the 2nd respondent and consequently direct the respondents to pay the petitioner s pension benefits to the petitioner including gratuity, provident fund accumulation, commutation amount, encashment of leave salary and other attendant benefits within the time limit that may be stipulated by this Court.

W.A. (MD) No.54 of 2015:

- 1.The Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Rep.by its Managing Director,
Tirunelveli - 3.



2.The General Manager,
The Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Nagercoil Region,
Kanyakumari District.

3.The Branch Manager,
The Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Papanasam Branch, Tirunelveli District.

... Appellants

Vs.

S.Malaiyandi

... Respondent

PRAYER: The Writ Appeal is filed under Clause 15 of Letters Patent Act, against the order dated 01.08.2013 passed in W.P.(MD)No.13072 of 2012 by the Learned Single Judge of this Court.

Prayer in WP(MD). 13072/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order of 2nd respondent in Proc.No.2578/Ad7/TNSTC (TNV)/TNV/2011 dated 25.08.2011 in so far as ordering recovery of Rs.57,040/- to the respondents to settle the petitioner s pension benefits on the ground that the petitioner did not pay the recovery amount of Rs.57,040/- to the respondents and quash the same as illegal, arbitrary and violative of Article 14 of the Constitution of India, and consequently direct the respondents to settle the petitioner s pension benefits including gratuity, provident fund accumulation, commutation amount, encashment of leave salary, refund of Engineering College contribution, refund of of Medical College Contribution, refund of PT Contribution, refund of IRT Development Fund and other attendant retiral benefits together with interest at the rate of 12% per annum payable to the petitioner with effect from 31.08.2011 to till date on which the above benefits are settled to the petitioner.

For Appellants : Mr.K.Sathiya Singh
For Respondents : Mr.A.Rahul

COMMON JUDGMENT

(Judgment of this Court was delivered by S.TAMILVANAN,J.)

Challenging the common order dated 01.08.2013 made in Writ Petitions in W.P.(MD)Nos.13984, 12705 and 13072 of 2012 by the learned Single Judge, these Writ Appeals have been preferred.



2. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the respondents.

3. As contended by the learned counsel appearing for the respondents / Writ petitioners prior to their retirement, the respondents / Writ petitioners, were working as Drivers in Tamil Nadu State Transport Corporation and they filed Writ petitions seeking orders in the nature of Writ of Certiorari of Mandamus, calling for the records pertaining to the impugned orders of the second respondent insofar as ordering recovery amounts from the petitioners towards non-implemented punishment of increment cut and directing the petitioners to deposit the said amounts with the second respondent and consequently, direct the respondents to pay the petitioners' pension benefits including gratuity, provident fund accumulation, commutation amount, encashment of leave salary and other attendant benefits within a time frame.

4. In the impugned order, the Learned Single Judge after recording the submission made by the learned counsel appearing for the petitioners therein considering similar impugned order challenged in W.P.No.12834 of 2012 and this Court by order dated 16.11.2012, quashed the impugned order and ordered to settle the terminal benefits without any recovery. In view of the same, the learned counsel appearing for the respondents herein sought for similar orders be passed.

5. Learned standing counsel appearing for the appellants / respondents on going through the said order, raised no tenable objection against similar orders being passed in these Writ appeals.

6. In paragraph No.5 of the impugned order dated 01.08.2013, the Learned Single Judge has observed as follows:

"4. When an order of penalty is passed, it is the duty of the disciplinary authority to see as to how far it could be enforced. The disciplinary authority, who imposed the penalty of stoppage of increment for four years with cumulative effect appears to have lost sight of the impending retirement of the petitioner from service. The service of persons like the petitioner are governed by the standing orders issued under the Industrial Employment (Standing Orders) Act. Though stoppage of increment for a specified duration, can be converted into recovery of the amount equivalent to the same, by virtue of certain provisions contained in the Fundamental Rules, in respect of Government employees who reach superannuation before such penalties are implemented in full, the same logic may not apply to employees of Transport



Corporations. The provisions of the Fundamental Rules may not per se apply to Transport Corporation employees.

5. In any event, the order of penalty at least should have taken care of the contingency and made it clear that a recovery of an equivalent amount will be ordered. But the penalty order dated 15.11.2011 does not state so. Even the order of retirement dated 28.07.2012 does not convert the penalty into one of recovery of the equivalent amount. Therefore, what has actually happened is a recovery without any order and that too effected after retirement. It is wholly illegal. In view of the above, the writ petition is allowed directing the respondent to settle all the terminal benefits without any recovery to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. If any amount has already been paid, the same shall be deducted. No costs."

It is not in dispute that the facts of the Writ petitions are identical and hence, the above reasoning given would hold good for the cases including the Writ petitions filed by the respondents herein, hence, all the Writ petitions were allowed and thereby the appellants / respondents were directed to settle all the terminal benefits to the respondents / Writ petitioners and for others to pay the amount without any recovery within a period of 8 weeks from the date of receipt of a copy of this order.

7. As contended by the learned counsel appearing for the respondents / Writ petitioners, the impugned order clearly shows that it was only a consent order based on the earlier decision and therefore, the appellants / respondents cannot re-agitate the same after giving consent before the Court in the Writ petitions. On a perusal of the grounds, we are of the view that there is no legal grievance available to the appellants to maintain the Writ Appeals and we could find no error or infirmity in the impugned order so as to warrant any interference.

8. On the aforesaid facts and circumstances, we find it just and reasonable to dismiss all the Writ Appeals confirming the orders passed by the Learned Single Judge.

9. In the result, the Writ Appeals are dismissed. No costs. Consequently, connected M.Ps. are closed.

Sd/-

Assistant Registrar(CO)



To

- 1.The Managing Director
Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Tirunelveli - 3.
- 2.The General Manager,
The Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Tirunelveli Region.
- 3.The Branch Manager,
The Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Thoothukudi City Branch,
Thoothukudi District.
- 4.The General Manager,
The Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Nagercoil Region,
Kanyakumari District.
- 5.The Branch Manager,
Ranithottam Branch I Depot,
Nagercoil Kanyakumari District.
- 6.The Branch Manager,
The Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Papanasam Branch, Tirunelveli District.

+3cc to Mr. K.Sathya Singh, Advocate Sr.No.8747,8739,8738

+1cc to A.Rahul, Advocate Sr.No.8532

nbj

AA/15.04.2015/6p-11c

**W.A. (MD) Nos.52 to 54 of 2015
24.02.2015**