

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.11.2016

CORAM

THE HONOURABLE MR.JUSTICE M.S. RAMESH

W.P.No.8949 of 2013
and
M.P.Nos.1 and 2 of 2013

R.Jayabalan

... Petitioner

- Vs -

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(Salem Division),
12, Ramakrishna Road,
Salem-636 007.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records from the respondent relating to the order bearing Ku.No.E10/0504/TSTC (Salem) / 2012, dated 24.10.2012 and quash the same and direct the Respondent to pay the Provident Fund and gratuity and commuted value of pension with interest at the rate of 12% p.a. from 01.09.2012 and pay pension with effect from 01.09.2012 to the petitioner and award costs.

For Petitioner : Mr.S.Ayyathurai

For Respondent : Mr.P.Paramasivadosh

O R D E R

While in service, the petitioner was imposed with number of punishments that resulted in postponement of his annual increments. The petitioner was due to retire on 31.10.2012 and the respondent realising that the punishments could not be given effect to before his retirement, passed the impugned order dated 24.10.2012 ordering for recovery of a sum of Rs.3,28,560/- for the period of non-implementation of the punishment. Aggrieved against the said order of recovery, the present Writ Petition is filed.

2. Heard Mr.S.Ayyathurai, learned counsel for the petitioner and Mr.P.Paramasivadosh, learned counsel for the respondent.

3. An order of punishment of postponement of the petitioner's annual increments is distinct from an order of recovery of the amount equivalent to the period of non-implementation of the punishments from the terminal benefits, which is further docked with a penalty of three times the amount. It is not the case of the respondent that the original order of the punishment carries a rider safeguarding such eventuality of the petitioner's retirement prior to implementation of the punishment.

4. The orders of punishments of postponement of the petitioner's annual increment was imposed on 08.10.2012 and 16.10.2012. Incidentally the petitioner was due to retire in the same month (i.e.,) on 31.10.2012.

5. The Authority, while imposing the punishment of postponement of annual increments, ought to have foreseen the contingency that the petitioner was due to retire in the same month and thereby safeguarded the interest of the respondent, by observing that the amounts would be recovered from the terminal benefits of the petitioner. In the absence of the same, the recovery order cannot be sustained and hence illegal.

6. The impugned order is also liable to be struck down since it is violative of the principles of natural justice. A bare perusal of the impugned order reveals that the petitioner was not given a prior opportunity to render his explanation to the respondent's decision to recover the amounts from out of his terminal benefits, particularly when the order is docked with the penalty of three times on the outstanding amount.

7. For the foregoing reasons, the impugned order cannot be sustained and is accordingly quashed and the Writ Petition stands allowed.

8. The respondent is directed to disburse the entire retirement benefits to the petitioner within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssn

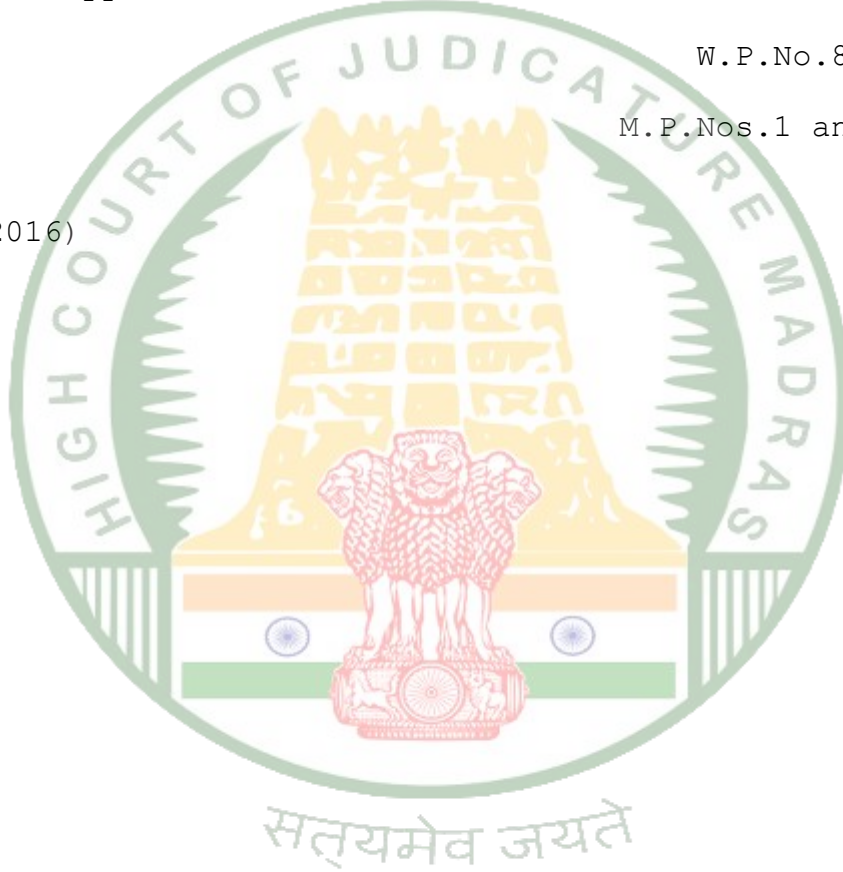
To

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(Salem Division),
12, Ramakrishna Road,
Salem-636 007.

+lcc to Mr.S.Ayyathurai, Advocate, S.R.No.63403

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UG(CO)
CA(10/11/2016)



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