

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2016

CORAM

THE HON'BLE MR. JUSTICE M.S. RAMESH

W.P.No.31510 of 2013

M.P.No. 1 of 2013

N.T.Vithilingam

...Petitioner

Vs.

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

...Respondent

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records from the respondent relating to the order bearing Ku.No.E10/0014/TNSTC(Salem)/2013, dated 31.05.2013 and quash the same consequently 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 Respondents : Mr.P.Paramasiva doss

O R D E R

In an identical set of facts, I had passed an order in W.P.No.8949 of 2013 dated 07.11.2016. The order reads thus:

"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."

2. The order under challenge in the present writ petition is also one demanding for payment of a sum of Rs.1,47,600/- (Rupees one lakhs forth seven thousand six hundred only). The order extracted above, is squarely applicable to the petitioner's case also.

3. Under such circumstances, the impugned order dated 31.05.2013 is quashed. The respondents are directed to disburse the retirement benefits to the petitioner within a period of six weeks from the date of receipt of a copy of this Order.

4. With the above directions, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

+1cc to Mr.S. Ayyathurai, Advocate, S.R.No.67760

kuk(CO)
md(14/12/2016)

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