IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P.Nos.8916 of 2017 and 35617 of 2016
& W.M.P.Nos.9836 of 2017 and 30611 of 2016

P.E.48, Tamil Nadu State Transport Corporation
(Coimbatore Division No.II),
Employees' Cooperative Thrift and Credit Society Ltd.,
Rep. by its Secretary - M.Shankar Diraviam
...Petitioner in both the petitions

Versus

1. Tamil Nadu State Transport Corporation,
(Coimbatore) Ltd.,
Rep. by its Managing Director,
No.37, Mettupalayam Road,
Coimbatore - 641 043.
2. The General Manager,
Tamil Nadu State Transport Corporation
(Coimbatore Division-II) Ltd.,
No.45, Chennimalai Road,
Erode - 638 001.
.. Respondents in both the petitions

Prayer in W.P.No.8916 of 2017: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of Certiorarified Mandamus to call for the entire records relating to the passing of the impugned orders by the 1st respondent in his communication in Pa.No.2411/B3/Sa.Pa.Pi/TNSTC/Ed/2017 dated 16.01.2017 and quash the same and consequently direct the respondents to continue to recover the loan amount already paid to the members of the Corporation from April 2017 onwards and remit it to the petitioner society till the entire loan is cleared.

Prayer in W.P.No.35617 of 2016: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus to call for the records relating to the impugned order passed by the 1st respondent in Pa.No.1581/B1/Sapapi/TNSTC/CBE/ED/16, dated 13.04.2016 and quash the same, and consequently direct the respondents to remit a sum of Rs.12,56,88,019-10 towards principal amount of loan recoveries and a sum of Rs.5,79,23,498-00 towards interest for the belated remittance, totaling to Rs.18,36,11,517-10 for the period from March 2011 to June 2016.

For Petitioner : M/s.R.Krishnamoorthy
(in W.P.No.8916 of 2017)
For Petitioner : M/s.R.Krishnamoorthy
(in W.P.No.35617 of 2016)
For Respondents : Mr.P.Paramasiva Doss
(in both the petitions) for Transport Corporation

C O M M O N O R D E R

The petitioner-Society has filed this writ petition challenging the impugned communication dated 16.01.2017 and 13.04.2016 of the 1st respondent.

2. According to the petitioner, the respondent-Corporation declined to recover the loan amount from the salaries of the employees of the respondent Corporation and remit the same to the petitioner Society from April 2017, in terms of the agreement and arrangement made in accordance with Section 48 of the Tamil Nadu Cooperative Societies Act. According to the petitioner, the respondent Corporation has violated the provisions of the said Act. Therefore, the Society has filed the present writ petition.

3. The learned counsel for the 2nd respondent has filed a counter affidavit stating that the petitioner Society has been regularly making its demands for recovery of loan dues on the last date of salary bill preparation. The respondent-Corporation has faced much difficulties to finalise the earnings and deduction of the employees in due course. The respondent Corporation has introduced E.C.S. in the bank for disbursing their salary every month. The petitioner Society was informed to explore and make use of it and get prompt repayment of loan amounts from its members through bank. Hence, they stopped recovery from April 2017 due to the above said reasons. However, the petitioner Society again claimed interest and penal interest at enhanced rate. As the Corporation is in such huge financial constraint, the Corporation has no way to provide free service and hence the Corporation decided to charge the service charges for the Society recovery as made in other Department recoveries

such as LIC, PLI, RD and bank loan recoveries from the salary deductions made from their employees. Accordingly, the Corporation has proposed and charged the service charges for the Society also. Based on the decision of the Corporation, RD recoveries had been stopped from 12/2013 and the employees were requested to remit the same on their own and directly and the Corporation has not accepted to deduct the premium for LIC new policies and requested their employees to switch over to another alternative such as ECS to pay the LIC premiums instead of salary deduction.

4. There is no direct link or any agreement signed between the petitioner Society and the respondent Corporation. The respondent Corporation has adjusted 2.5% as service charges for the recovery amount as done in postal recurring deposit, LIC recovery, PLI recovery and bank housing loan recoveries etc. Further, the petitioner Society and respondent Corporation are separate bodies.

5. Taking into consideration the above difficulties faced by the Corporation, service charges are reimbursed by other Department for the recoveries made by the respondent Corporation. Therefore, the respondent Corporation is doing the works of pay recovery and rendering the loan and interest amount from salary of the employees by having a large administrative staff specifically employed for it.

6. By taking into consideration the crisis faced by the Corporation, the Society has accepted the Corporation's decision to recover the interest. The respondent justified their stand in respect of deduction of 2.5% as service charge for recovery from the employees deduction to the Society. At the same time, the learned Standing Counsel appearing for the Corporation fairly submitted that the said decision of the Corporation for deduction of 2.5% service charge shall be executed for fresh loans sanctioned by the petitioner Society. The said decision will not apply for the loans already sanctioned.

7. In view of the aforesaid statement made by the learned standing counsel for the Corporation and the letter submitted by the petitioner Society dated 01.09.2017 addressed to the counsel for the petitioner, which has been placed before this Court, agreeing for 2.5% service tax, and petitioner-Society has also accepted in principle the said amount of 2.5% service charge from the employees of the Society for fresh loans sanctioned by the petitioner Society, while recording the above submissions and the said letter, the respondent-Corporation is directed to remit the recovered amount to the petitioner Society as per the existing agreement, as early as possible either by 12 installments or by one time measure with in a period of one year

from the date of receipt of a copy of this order.

8. With the above observations and directions, the writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

/TRUE COPY/

Sub Assistant Registrar

pvs

To
1. The Managing Director,
Tamil Nadu State Transport Corporation,
(Coimbatore) Ltd.,
No.37, Mettupalayam Road,
Coimbatore - 641 043.
2. The General Manager,
Tamil Nadu State Transport Corporation
(Coimbatore Division-II) Ltd.,
No.45, Chennimalai Road,
Erode - 638 001.

+2 C.C. to M/S.R.KRISHNAMOORTHY, Advocate SR.NO. 64299, 64300

W.P.Nos.8916 of 2017
and 35617 of 2016

GJ(CO)
T.R (11/11/2017)