

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2017

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Writ Petition No.17499 of 2016
and
W.M.P.No.14955 of 2016

Tamil Nadu State Transport Corporation
Villupuram Employees Co-operative
Thrift & Credit Society Limited,
rep.by Secretary,
No.257 Angappa Naicken Street,
Jafferullaha Tower, Parrys,
Chennai 600 001. ... Petitioner

Vs.

1. The Secretary to Government and Chairman,
State Transport Undertakings
Transport Department,
Secretariat, Chennai 600 009.
2. The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Division,
3/137, Salamedu,
Vazhudareddy(Po),
Villupuram 605 602. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to make payments of the amount of Rs.8.69 crore recovered from the salaries of the employees towards the loan dues of the petitioner upto the month of April 2016 and also to make such future payments in accordance with the provisions contained in Section 48 of the Tamil Nadu Co-operative Societies Act, 1983 read with Rule 69(4) and (7) of the Tamil Nadu Co-operative Societies Rules 1988.

For Petitioner : Mr.P.Anbarasan

For Respondents : Mr.N.Srinivasan,
Special Government Pleader For R1

Mr.P.Paramasiva Doss,
Standing Counsel for R2

O R D E R

The prayer in the writ petition is for issuance of a Writ of Mandamus directing the respondents to make payments of the amount of Rs.8.69 crore recovered from the salaries of the employees towards the loan dues of the petitioner upto the month of April 2016 and also to make such future payments in accordance with the provisions contained in Section 48 of the Tamil Nadu Co-operative Societies Act, 1983 read with Rule 69(4) and (7) of the Tamil Nadu Co-operative Societies Rules 1988.

2. The petitioner is the Tamil Nadu State Transport Corporation Villupuram Employees Co-operative Thrift & Credit Society Limited. The petitioner/Society extends financial assistance to the employees of the Tamil Nadu State Transport Corporation, viz., the second respondent. The scheme of arrangement entered into between the petitioner/Society and the second respondent is that financial assistance extended by the petitioner/Society to the employees of the respondents/Corporation will be recovered by the respondents/Corporation from the monthly salary of the employees and remitted to the petitioner/Society, who in turn will repay the loan obtained by them from the Central Co-operative Bank/Financing Bank. Admittedly, the deduction from the salary of the employees has been done by the respondents, but they have defaulted in repaying the amount, so recovered from the employees, to the petitioner/Society. Thus, as on date, the respondents are defaulters in the eyes of the law. The amount payment to the petitioner/Society is Rs.9 crores.

3. The learned counsel appearing for the petitioner submitted that a similar issue was already decided by this Court in W.P.No.12733 of 2016, dated 20.04.2016. In para 6 of the aforesaid order, this Court has held as follows:-

"6. Therefore, abovesaid factors, pleaded in the counter affidavits, can have no impact on the liability of the respondent/Corporation to the petitioner/Society. The ultimate sufferer, on account of the default committed by respondents 2 and 3 are the employees, since on account of the fact that they have not remitted the loan amount, despite having recovered from the salary of the employees, the employees will be shown as defaulters in the accounts of the petitioner/Society. It would not only cast a stigma on the employees, but also prevents them from availing a fresh loan in need of urgency. That apart, it has got a cascading effect, since the petitioner/Society will be not in a position to borrow loan from the funding society, viz., Central Cooperative Banking Society, and on

account of that, the petitioner/Society would become defaulter with the Central Cooperative Banking Society and they will be liable to pay the amount along with interest, which may have a further cascading effect on the Board of Directors, who in turn are paid employees of the respondents 2 and 3. Therefore, it is high time for respondents 2 and 3 to settle the entire dues to the petitioner/Society. However, taking into consideration the overall financial position of respondents 2 and 3, this Court is inclined to grant five months for settling the entire liability. It is made clear that the aforesaid payment shall be effected without reference to the past arrears, and it is needless to say that the current dues should also to be settled promptly."

4. The learned Standing Counsel appearing for the second respondent did not dispute the contention raised by the petitioner and further admitted that, the judgment relied on by the learned counsel appearing for the petitioner is squarely applicable to the facts of the present case. However, the learned Standing Counsel appearing for the second respondent requested to grant 18 months time to settle the outstanding due amount to the petitioner's Society.

5. Considering the submissions made by the learned counsel appearing for the parties, the respondents are directed to settle the entire dues to the petitioner's Society, in the light of the order passed by this Court in W.P.No.12733 of 2016, dated 20.04.2016, cited supra, within a period of 18 months from the date of receipt of a copy of this order, without any default.

6. Accordingly, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government and Chairman,
State Transport Undertakings
Transport Department,
Secretariat, Chennai 600 009.

2. The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Division,
3/137, Salamedu,
Vazhudareddy(Po),
Villupuram 605 602.

+lcc to Mr.Anbarasan, Advocate, S.R.No.24524
+lcc to the Government Pleader, S.R.No.25342

W.P.No.17499 of 2016

MG(CO)
CA(23/05/2017)



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