

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2017

CORAM :

THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.No.2569 of 2012

and M.P.No.2 of 2012

C.Ganesan,
S/o.Chinnadurai, ... Petitioner

Vs.

1. The Secretary to Government,
Transport Department,
Fort St. George,
Chennai - 600 009.
2. The Managing Director,
State Express Transport Corporation TN Ltd.,
Chennai - 600 002. ... Respondents

Prayer : Writ petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus or any other Writ or order or direction in the nature of a Writ calling for the Letter No.4170/D/2010-3 dated 23.09.2010 and Government Letter No.18912/D/2010-2, Transport (D) Department dated 12.04.2011 on the file of the 1st respondent and circular No.024512/WA1/SETC/2010 dated 26.04.2011 issued by the 2nd respondent and to quash the same as illegal and consequently direct the respondents to pay House Rent Allowance drawn by the Petitioner all along from 01.10.1984 as per G.O.(Ms)No.10 of Transport Department dated 02.01.1987.

For Petitioners : Mr.P.S.Kothandaraman,
For Respondent : Mr.R.Vijayakumar
Addl. Government Pleader for R1
Mr.Parasivadoss for R2

O R D E R

Mr.P.S.Kothandaraman, learned counsel appears on behalf of the writ petitioner. Mr.R.Vijayakumar, learned Additional Government Pleader appears on behalf of the first respondent and Mr.Paramasivadosh, learned counsel appears on behalf of the second respondent.

2. By consent, the main writ petition itself is taken up for disposal.

3. The writ petitioner is an employee (Assistant Manager) in State Express Transport Corporation Tamil Nadu Limited (hereinafter referred to as "Transport Corporation" for brevity).

4. The matter pertains to house rent allowance of employees of the said Transport Corporation. Vide proceedings being letter No.18912/D/2010-2, dated 12.04.2011, the first respondent issued a letter, which is in the nature of a circular, instructing the said transport corporation to recover excess amount paid to the employees by way of HRA. This letter states that the Managing Director of the said Transport Corporation and other similarly placed Transport Corporations, shall do the needful in this regard.

5. Pursuant to and consequent upon the above said letter/circular dated 12.04.2011, the second respondent, Managing Director of the said Transport Corporation issued proceedings in the nature of a circular dated 26.04.2011 being circular No. 024512/WA1/SETC/2010.

6. Assailing both the above said order and circular issued by the respondents 1 and 2 respectively, the instant writ petition has been filed.

7. This matter turns on a very short and narrow campus. Therefore I refrain from going into the further details.

8. The short point is that an order of recovery has been passed without notice to the employees concerned.

9. It is also not in dispute before me that an order of recovery in cases of this nature can not be passed without giving an opportunity to the employees. This position of law is fairly well settled and therefore, it is not in dispute before me.

10. This Court is, therefore, inclined to set aside the impugned order on the short point that the concerned employee was not put on notice before the order of recovery was passed.

11. The following order is passed:

(i) The respondent shall put the employee on notice and grant him an opportunity to put forth his case and thereafter pass suitable orders qua the recovery order.

(ii) The above exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

12. This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsm

To

1. The Secretary,
Government of Tamil Nadu,
Transport Department,
Fort St. George,
Chennai - 600 009.
2. The Managing Director,
State Express Transport Corporation TN Ltd.,
Chennai - 600 002.

+1cc to Mr.P.S. Kathandaraman, Advocate, S.R.No.15773
+1cc to the Government Pleader, S.R.No.16568

VGII(CO)
md(24/03/2017)

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