IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.03.2018

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THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

W.A.No.2549 of 2013

P.Ramasamy .. Appellant

Vs.

1.The Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Rep. by its Managing Director
Mettupalayam Road, Coimbatore.

2.The General Manager
The Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Erode Region, Chennaimalai Road
Erode-1.

3.The Branch Manager
The Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Erode Branch-2, Pallipayam
Namakkal District. .. Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set-aside the order dated 07.02.2013 made in W.P.No.11697 of 2012 on the file of this Court.

WP.No. 11697 of 2012: This Writ petition is preferred under Article 226 of the Constitution of India praying for the issua of a Writ of declaration declaring that the action of the respondents in ordering for recovery of Rs.69 626/- from the petitioner towards non-implemented punishment of increment cuts and pay reduction etc. imposed on the petitioner and also in refusing to settle the petitioners pension benefits on the ground that the petitioner did not pay the recovery amount of Rs.69 626/- as illegal arbitrary and violative of Article 14 of the Constitution of India and consequently direct the respondents to settle the petitioners terminal benefits including gratuity provident fund accumulation encashment of leave and other attendant retiral benefits together with interest at the rate of 12% per annum payable to the petitioner.

For Appellant : Mr.V.Ajoy Khose
For Respondents: Mr.P.Kannan Kumar

J U D G M E N T

[Judgment of the Court was delivered by
K.K.SASIDHARAN, J.]

The appellant filed a writ petition before the writ court in W.P.No.11697 of 2012 for a declaration that the action of the respondents in directing recovery of a sum of Rs.69,626/- from him towards the recovery of the remaining amount consequent to the punishment of the cut in the increment and pay reduction is illegal. The writ petition was filed on the ground that there is no Standing Orders to allow the Management to effect recovery after retirement. The writ petition was partly allowed by the learned single Judge. The learned single Judge set aside the direction for cut in the monetary benefits three times the penalty which was not contemplated under the Rules. Feeling aggrieved by the portion of the order by which the appellant was denied the relief with respect to the remaining amount payable by him consequent to the punishment, the appellant is before this Court.

2. We have heard the learned counsel for the appellant. We have also heard the learned counsel for the respondents.

3. The only question that arises for consideration is as to whether the respondents are entitled to recover the amount from the terminal benefits of the appellant on account of the non-implemented punishment of cut in the increment and pay reduction.

4. There is no dispute that the disciplinary proceedings were taken against the appellant. The disciplinary authority imposed the punishment of cut in one increment with cumulative effect. The said order has become final. The employer appears to have recovered a portion of the amount from the wages of the appellant. By the time the appellant retired from service, a sum of Rs.69,626/- was due. The Management, therefore, refused to permit the appellant to withdraw the retirement benefits. It was only under such circumstances, the appellant filed the writ petition.

5. There is no Standing Order produced before us to support the claim made by the respondents that they are entitled to collect the un-recovered amount even after retirement. There is only one provision, viz., Rule 4(1)(e) of the Common Service Rules. The said provision is not found in the Certified Standing Orders. The Common Service Rules would not be applicable to the applicant, as he is governed by the Certified Standing Orders. The Certified Standing Orders does not contain any provision for recovery after retirement. This provision was highlighted by a Division Bench of this Court in its judgment dated 30 June, 2017 in W.A.(MD)Nos.465 of 2017 etc. batch.

6. The very same issue came up for consideration before a Division Bench of this Court in W.A.(MD)Nos.886 and 887 of 2017 (judgment dated 12 July, 2017-The Tamil Nadu State Transport Corporation vs. S.R.Vishwanathan). The Division Bench, by following the earlier judgment, rendered a finding that there is

no provision to deduct the non-implemented punishment after retirement.

7. The respondents have not produced any material before us to demonstrate that even after retirement, they are entitled to recover the amount from the employees. We are, therefore, of the view that there is no liability to pay the amount after retirement. We therefore, issue a declaration to the effect that there is no statutory liability on the part of the appellant to pay the monetary value of the non implemented punishment after his retirement. The respondents are directed to disburse the retirement benefits to the appellant within a period of eight weeks from the date of receipt of a copy of this judgment.

The intra court appeal is allowed as indicated above. No costs.

Sd/-
Assistant Registrar(CS VI)

//True copy//

Sub Assistant Registrar

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To

1.The Managing Director
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.
Mettupalayam Road, Coimbatore.

2.The General Manager
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Erode Region, Chennaimalai Road
Erode-1.

3.The Branch Manager
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Erode Branch-2, Pallipayam
Namakkal District.

+1cc to Mr.P.Kannan Kumar, Advocate SR.No.20757
+1cc to Mr.V.Ajoy Khose, Advocate SR.No.20685

W.A.No.2549 of 2013

VGII(CO)
GN(04/05/2018)