IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.21762 of 2019

T.Chandrasekaran ..Petitioner

vs

1.The Government of Tamil Nadu
Represented by its
Secreatry to Government
Transport Department,
Seretariate,
Chennai-600 009

2.The Managing Director
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Salem Division,
No.12, Ramakrishna Road,
Post Box No.713,
Salem-636 007

3.The General Manager,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Salem Division,
No.12, Ramakrishna road,
Post Box No.713,
Salem-636 007

4.The Administrator
Tamil Nadu State Transport
Corporation Employees Pension fund Trust,
Thiruvalluvar House,
Pallavan Salai
Chennai-600 002. .. Respondents

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Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of declaration declaring the action of the 2nd and 3rd respondents in recovering a sum of Rs.3,95,250/- towards non-implementable punishment of increment cut imposed on the petitioner as illegal, arbitrary and violative of Article 14 of the Constitution of India and

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consequently direct the Respondents corporation to disburse the amount of Rs.3,95,250/- to the petitioner with 18% rate of interest within the time frame that may be stipulated by this Court.

For Petitioner : M/s. Sudhagar Nagaraj

For Respondents : Mrs.S.Rajeni Ramadas

ORDER

Writ Petition is filed for issuance of a Writ of declaration to declare the action of the 2nd and 3rd respondents in recovering a sum of Rs.3,95,250/- towards non-implementable punishment of increment cut imposed on the petitioner as illegal, arbitrary and violative of Article 14 of the Constitution of India and consequently direct the Respondents corporation to disburse the amount of Rs.3,95,250/- to the petitioner with 18% rate of interest.

2.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents. By consent, the writ petition is taken up for final disposal.

3. The case of the petitioner is that the petitioner joined service as Senior Driver in the respondents' corporation with effect from 16.02.1987 at Meyyanoor. He was retired from service on 31.05.2012. After his retirement, without issuing any prior notice, the respondents have recovered a sum of Rs.3,95,250/- non-implementable punishment of increment cut imposed on the petitioner from his retiral benefits, Gratuity and Social Protection Welfare Fund. The petitioner has made several representations in this regard, but there is no response from the respondents' Corporation. Aggrieved against the said action of the respondents Corporation in recovering a sum of Rs.3,95,250/-, the present Writ Petition is filed.

4. Learned counsel for the petitioner submitted that the very same issue is covered by the order of this Court dated 27.04.2018 made in W.P.(MD) No.9755 of 2018, wherein, this Court has observed as follows:

> ''3.The question is as to whether the non-implemented increment cuts can be recovered from the employee at the time of superannuation came up for consideration before this Court in a batch of cases in the Management of Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., Vs

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J.Arumugam, in W.A.(MD).Nos.465 of 2013 ect., batch, the Division Bench to which I(TSSJ) was a party, by judgment dated 30.06.2017, set aside the order of recovery made by the Management of the Transport Corporation, insofar as recovering the non-implemented increment cuts. The Management of Transport Corporation filed an appeal before the Hon'ble Supreme Court in S.L.P.No.1755 of 2018. However, the Hon'ble Supreme Court dismissed the appeal by order dated 09.02.2018. In the light of the above and the decision of the Division Bench, the impugned order of recovery of a sum of Rs.75,240/- from the terminal benefits of the petitioner's husband is illegal and unsustainable.''

5. In the light of the above said judgment, stated supra, I am inclined to allow this writ petition. Accordingly, the impugned recovery order is quashed the writ petition stands allowed. This Court directs the 2nd and 3rd respondent to consider the petitioner's representation in respect of retirement benefits within a period of 12 weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

vsn

To

1.The Secreatry to Government
Government of Tamil Nadu
Transport Department,
Secretariat,
Chennai-600 009

2.The Managing Director
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4.The Administrator
Tamil Nadu State Transport
Corporation Employees Pension fund Trust,
Thiruvalluvar House,
Pallavan Salai
Chennai-600 002.

+1cc to M/s. Sudhagar Nagaraj, Advocate SR.98712
+1cc to M/s.S.Rajeni Ramadoss, Advocate SR.99481

W.P.No.21762 of 2019

SJ(CO)
CB(29/01/2020)

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