

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.11.2019
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.32350 of 2019
and
W.M.P.No.32650 of 2019

R.Palanisamy

.. Petitioner

-vs-

- 1.The Government of Tamil Nadu,
Rep., by its Secretary to Government,
Transport Department,
Secretariat, 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 Assistant Manager (Personnel),
Tamil Nadu State Transport
Corporation (Salem) Ltd.,
Salem Division,
No.12, Ramakrishna Road,
Post Box No.713, Salem-636 007.
- 5.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Thiruvalluvar House,
Pallavan Salai, Chennai-600 002.

.. Respondents

Prayer:Petition under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorarified Mandamus to call
for the records pertaining to the impugned order passed by the
4th respondent made in Ku.No.E1012132/Tha.A.Po.Ka.(Salem)/2018
dated 20.07.2018 and quash the same and consequently direct the

respondents 2 to 5 Corporation to settle the arrears of Pension and balance amount of retirement benefits to the petitioner with reasonable rate of interest that may be fixed by this Court.

For Petitioner : Mr.N.Sudhagar Nagaraj

For Respondents : R1 - Mr.R.S.Selvam,
Government Advocate

: RR2 to 5 - Ms.Rajeni Ramadass,
Standing Counsel

O R D E R

This writ petition is filed to quash the order dated 20.07.2018 passed by the 4th respondent in Ku.No.E1012132/Tha.A.Po.Ka.(Salem)/2018 and consequently direct respondent nos. 2 to 5 Corporation to settle the arrears of Pension and balance amount of retirement benefits to the petitioner with reasonable rate of interest that may be fixed by this Court.

2.The case of the petitioner is that the petitioner joined the services of the respondent Corporation in the year 1986 and he worked as Selection Grade Driver in the 2nd and 3rd respondents Branch at Erumapalayam. He was allowed to retire from the 3rd respondent Corporation with effect from 31.07.2018. On 07.07.2014, while he was working as a Driver in the respondent Corporation Bus bearing Registration No. TN 30 N 0147, on the particular day, the bus was plying from Salem Town Bus Stand to Kondappanaickanpatti. At that time, a Checking Inspector of the 3rd respondent Corporation checked and verified all the tickets in the petitioner's bus route. Immediately, the Checking Inspector issued a notice to the petitioner stating that he had driven the bus late by giving preference to other private buses leaving from Kondappanaickanpatti bus stand and to arrive to Salem town bus stand earlier to the petitioner bus. Upon receipt of the notice, the petitioner gave his detailed explanation as to why his bus was late on 07.07.2014. However, on 28.02.2015, the 4th respondent issued an order suspending the petitioner's increment for three months. In spite of the petitioner having given his explanation, the respondent on 23.08.2015, issued another order imposing punishment of stoppage of one increment with cumulative effect. In order to implement the punishment, at the time of settling the retirement benefits, the respondent withheld a sum of Rs.96,000/- from his terminal benefits on 20.07.2018, and challenging the same, the present writ petition has been filed.

3.The learned counsel for the petitioner would submit after retirement any recovery made by the respondent Corporation is an unsettled one and the same issue came up before a Division

Bench of the Madurai Bench of this Court in W.A.(MD) Nos.886 & 887 of 2017, wherein the Madurai Bench of this Court on 12.07.2017, held that the Corporation could not dispute the factual position that in the standing orders applicable to employees, there is no provision to effect such recoveries. The Division Bench referred to an earlier decision of the Madurai Bench in W.A.(MD) Nos.52 to 54 of 2015, dated 24.12.2015, wherein it was held that permitting the Corporation to deduct the "non implemented punishment of increment cut" cannot be considered as just or equitable. Following the judgment in W.A.(MD) Nos.52 to 54 of 2015, the Division Bench dismissed the appeals filed by the Transport Corporation. The case on hand is also similar in the above lines. Accordingly, the learned counsel prayed for allowing of the writ petition.

4.Per contra, Ms.Rajeni Ramadass, learned Standing Counsel for the respondent Corporation contended that though the Madurai Bench of this Court passed a similar type of order on 12.07.2017 holding that there is no provision for withholding the non implemented punishment amount after retirement, however subsequently, there was a settlement between the employer and the employee on 04.01.2018 and all the Transport Corporation Employees Union Federation participated in 12(3) Settlement and arrived a conclusion and the Federation accepted the non implemented punishment and agreed to recover the amount from the respective parties. Admittedly, the petitioner has not challenged the punishment imposed on earlier occasion withholding the non implemented punishment amount. Hence, now the petitioner cannot claim any recoveries.

5.This Court is of a clear view that though the decision of the Madurai Bench of this Court would apply to the case on hand, subsequently, there was a settlement between the parties. The Madurai Bench of this Court passed an order holding that in the absence of any provision made, recovery in respect of the petitioner is unsettled one. After which, there was a 12(3) settlement, which is binding on the parties, wherein, the employees union accepted the recoveries. Hence, the judgment of the Division Bench is not applicable to the case on hand.

6.With the above observations, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar(Cj conf)

//True Copy//

Sub Assistant Registrar

To

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

2.The Managing Director,
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Employees Pension Fund Trust,
Thiruvalluvar House,
Pallavan Salai, Chennai-600 002.

+1 cc to Government Pleader Sr.No. 96534

+1cc to Mr.N.Sudhagar nagaraj , Advocate SR.No. 95736

+1cc to Mr.Rajeni Ramadass , Advocate SR.No. 96192

W.P.No.32350 of 2019

SSV

A.SK(24/01/2020)

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