

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 17.12.2018	Order Pronounced on : 09.01.2019
------------------------------------	-------------------------------------

CORAM:

THE HON'BLE DR. JUSTICE S.VIMALA

W.P.No.33166 of 2018
and
W.M.P.Nos.38485 and 38487 of 2018

S.Neethapathi ... Petitioner

- Vs -

1. The Management,
Tamil Nadu State Transport
Corporation (Salem) Ltd.,
Rep. By its Managing Director,
No.12, Ramakrishna Road,
Salem - 7.
2. The Assistant Manager (Labour)
Office of the Assistant Manager,
Tamil Nadu State Transport
Corporation (Salem) Ltd.,
Salem - 7. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of writ of certiorarified mandamus, to call for the records of the 2nd respondent in his communication in letter No.Ku.No.E12/9278/THAAPOKA (Salem) 2018, dated 16.11.2018 and to quash the same and further direct the respondents to pay the retirement benefits and other benefits to the petitioner as per the representation of the petitioner dated 11.05.2018.

For Petitioner : Mr.M.Rajasekhar

For Respondents : Mr.R.K.Gandhi,
Standing Counsel

O R D E R

The pith and substance of the petitioner's case reads as follows:

(i) The petitioner had been borne on the service of the respondents Corporation as Driver and was driving buses at Irumapalayam Route before he was transferred to Mettupalayam Division in the year 1999. During that period, on the ground of alleged unauthorized absence, he came to be dismissed from service, against which, a petition was laid before the Special Deputy Commissioner of Labour at Chennai. The said petition was allowed with backwages, against which, the first respondent filed a writ petition in W.P.No.23731 of 2014, which was later referred to Lok Adalat and got settled on 15.12.2014, which, inter alia, awarded continuity of service without backwages.

(ii) The petitioner, subsequently, armed with the terms of the award re-entered into the service of the respondent by 22.05.2015 and attained superannuation almost three years later on 30.04.2018. The petitioner was allowed to retire, but, his retirement benefits was yet to be disbursed.

(iii) In the meanwhile, the Management has chosen to employ different methods of harassment, oblivious of the fact that the petitioner is no longer under their employment. In pursuance of such attitude, on 02.05.2018, the first respondent directed the petitioner to pay a sum of Rs.4800/- towards an alleged punishment imposed on the petitioner while he was in service. Subsequently, the petitioner impressed upon the respondent that such a recovery was not only unwarranted and illegal, but also irrelevant for the fact that no punishment was imposed on him after his reinstatement.

(iv) Much later, on 16.11.2018, the second respondent addressed a communication to the petitioner seeking payment of Rs.6,12,800/- towards recovery of amount due on account of alleged punishment imposed upon the petitioner that too while in service. The above impugned letter is sought to be quashed by the the petitioner with a prayer for direction to pay the retirement benefits and other amount payable to the petitioner.

2. Both the communications received from the respondent is similar sans the amount sought to be recovered and curious enough though the second communication is issued about six months after the issuance of the first such communication, but, lacks any reference as to the previous communication.

3. This Court is of the firm opinion that the petitioner who had already paid a heavy price for his unauthorized absence, with his dismissal from service only to be saved by the hands of justice through judicial intervention of the High Courts, Lok Adalat award, would have conscious of his duty very well than ever before, and that is why he was allowed by the respondent to retire on his superannuation. If that is the case, what is the

necessity for the Management to have come up with two recovery notices citing an alleged punishment incurred by the petitioner that too while in service, even while withholding the pensionary benefits.

4. In very many cases, Judicial Fora had upheld the notion that pension is not an act of charity, but, a reward merited by the service rendered by the workman. Besides a retired driver is not expected to be running pillar to post, to recover what are his service benefits which are very much necessary to support his financial means and it is supposed to be only reservoir not only for quenching the thirst of the petitioner, but also his entire family.

5. To slap with two recovery notices upon the retired workman shows the height of cruelty of the management, who are unable to digest the cake walk like smooth retirement of the workman, after coming back to the employment on the strength of judicial intervention.

6. Elements of elitism and sadism equally populates the recovery orders impugned in this writ petition and the ego bruised, again display its come back in the decision to withhold the pensionary benefits.

7. The order permitting the petitioner to be relieved on the eve of his superannuation is dated 30.04.2018. This order did not speak anything about, the pendency of recovery orders. The order dated 16.11.2018, seeking payment of Rs.6,12,800/- states that it was towards unimplemented postponed increment cut. The order for cutting the increment cannot be implemented after the retirement.

8. The order dated 02.05.2018, which is also passed after retirement reads that amount of Rs.4,800/- was payable towards unimplemented postponed increment cut. This order also cannot be implemented after the retirement.

9. In the result, both the impugned orders dated 02.05.2018 and dated 16.11.2018 are set aside with a direction to the respondents to pay the pensionary benefits and other monetary benefits payable to the retired petitioner forthwith. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

ogy

To

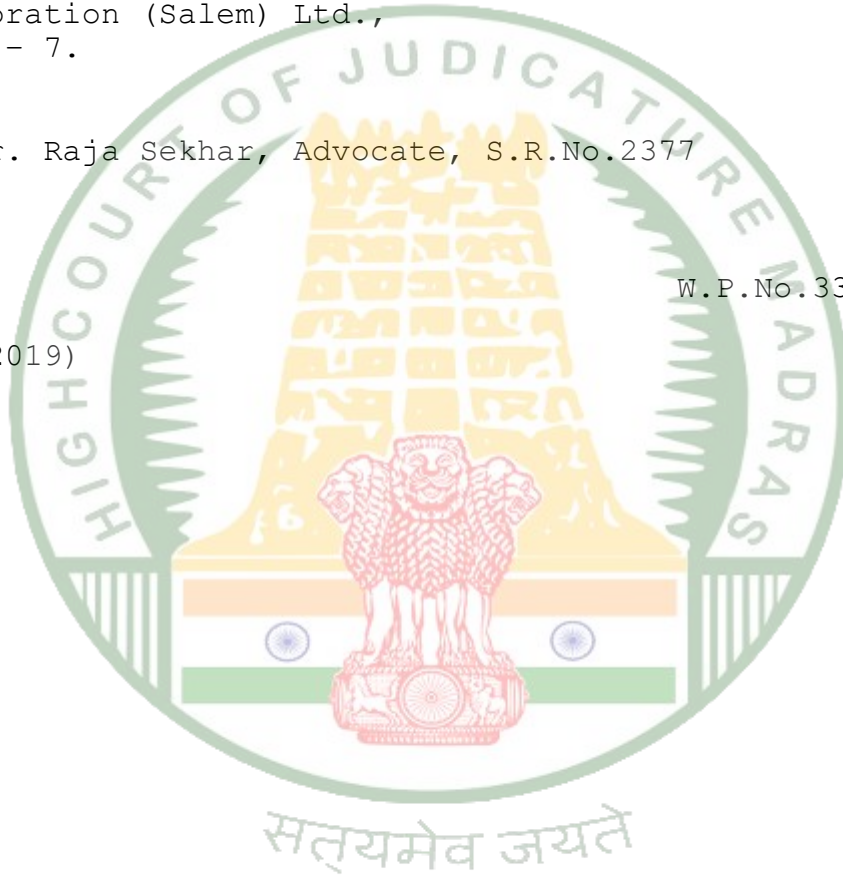
1. The Management,
Tamil Nadu State Transport
Corporation (Salem) Ltd.,
Rep. By its Managing Director,
No.12, Ramakrishna Road,
Salem - 7.

2. The Assistant Manager,
Office of the Assistant Manager,
Tamil Nadu State Transport
Corporation (Salem) Ltd.,
Salem - 7.

+1cc to Mr. Raja Sekhar, Advocate, S.R.No.2377

W.P.No.33166 of 2018

GN(04/02/2019)



WEB COPY