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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

W.P. (MD) No.2812 of 2019

L.Selvaraj

... Petitioner

Vs.

1.The Management of
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
represented by its Managing Director,
Kumbakonam.

2.The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Trichy Region, Trichy.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Declaration, to declare the action of the respondents in recovering a sum of Rs.1,39,000/- from the petitioner towards "Non-implemented punishment of increment cut" as illegal and without jurisdiction and consequently to direct the respondents to forthwith pay him the recovery amount of Rs.1,39,000/- and together with his terminal benefits including gratuity, Provident Fund, Earned Leave Salary and refund of his contribution made towards Medical, Engineering Polytechnic Colleges and Institute of Road Transport with interest at the rate of 18% per annum payable from 30.06.2018 to till the date on which the above amount is settled to the petitioner.

For Petitioner : Mr.A.Rahul
For R1 and R2 : Mr.D.Sivaraman

ORDER

Seeking to declare the action of the respondents in recovering a sum of Rs.1,39,000/- from the petitioner towards "Non-implemented punishment of increment cut" as illegal and without jurisdiction and for a direction to the respondents to pay other terminal benefits to the petitioner, the present writ petition is filed.

2.Heard the learned Counsel appearing on both sides and perused the materials available on record.

<https://hcservices.ecourts.gov.in/hcservices/>

3.It is the case of the petitioner that while he retired from service from the respondent Corporation, the second respondent



insisted the petitioner to pay a sum of Rs.1,39,000/- without assigning any reason. After remitting the said amount, he came to know that such recovery was towards non-implemented punishment of increment cut. Aggrieved against the same and for consequential retiral benefits, the present writ petition came to be filed.

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4.The learned Counsel for the petitioner submitted that the issue in this Writ Petition is covered by the Judgment of the Division Bench of this Court in W.A(MD)No.465 and batch etc., dated 30.06.2017, wherein at paragraph No.38, it has been held as follows:-

"38.Thus, for all the above reasons, we are of the firm view that the orders of recovery passed against the workmen are liable to be set aside. Accordingly, the orders of recovery are set aside and the issue that has been raised in regard to the first set of appeals filed by the Management is answered in favour of the workmen. Insofar as the issue pertaining to the second set of appeals filed by the workmen in concerned, the order of recovery is set aside and the punishment is confirmed. The second issue is answered partly in favour of the workmen. The next aspect is as to whether the workmen are entitled to interest on the retiral benefits, which is the subject matter in the third set of appeals. In terms of the relevant statute, when retirement benefits are delayed, they are required to be paid along with interest. Under the Tamil Nadu Pension Rules, an amendment has been brought by insertion of Rule 1(A) in Rule 45(A), which provides for interest on the Death cum Retirement Gratuity (DCRG) payable on expiry of three months even in respect of a Government servant, against whom, disciplinary proceeding was initiated and he was thereafter, exonerated of the charge. If such is the position, insofar as the Government servants are concerned, we would be justified in exercising our discretion to direct the Management to pay the retiral benefits with reasonable interest since for a considerable length of time, the retirement benefits have not been paid, and the entire benefits have been fully wiped of under the garb of recovering three times the monetary value of the increment, which we have held in this order as wholly without jurisdiction and illegal. Therefore, we are inclined to direct the Management to pay reasonable interest on the said retiral benefits payable to the workmen, and this issue is answered in favour of the workmen."

5.The submission so made by the learned Counsel for the petitioner is fairly conceded by the learned Counsel for the respondents.



6. Following the aforesaid judgment, which holds good in respect of the petitioner herein, the respondents are directed to settle the recovery amount as well as the entire terminal benefits due to the petitioner in twelve equated monthly installments together with simple interest at 6% per annum on the expiry of three months from the date of retirement. The first installment commences from 06th May, 2019 and each installment shall be paid within 10th day of every English Calendar month.

7. The Writ Petition is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Management of
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
represented by its Managing Director,
Kumbakonam.

2. The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Trichy Region, Trichy.

+1CC TO MR.A.RAHUL, Advocate Sr. No.55863

+1CC TO MR.D.SIVARAMAN, Advocate Sr. No. 56091

ORDER MADE IN
W.P. (MD) No. 2812 of 2019
21.03.2019

TR (16.04.2019) 3P 5C