



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:10.04.2019

CORAM

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

W.P(MD)No.8520 of 2019

and

W.M.P.(MD)No.6660 of 2019

A.Thangavelu

... Petitioner

vs.

1.Tamil Nadu State Transport Corporation (Madurai) Ltd.,  
Represented by its the Managing Director, Madurai.

2.The General Manager,  
Tamil Nadu State Transport Corporation (Madurai) Ltd.,  
Dindigul Region, Dindigul.

3.The Branch Manager,  
Dindigul II Branch, Dindigul.

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the original impugned order in Reference No. CES/E2/1410, dated 05.04.2018 in so far ordering recovery of Rs.1,29,600/- towards non implemented punishment and increment cut with cumulative effect for 3 years passed by the second respondent and quash the same as illegal within the time contemplated in the provision of law without delay.

For Petitioner : Mr.G.M.Xavier

For Respondents : Mr.J.Senthil Kumaraiah  
for R1 and R2

### ORDER

The prayer in this writ petition is to quash the impugned proceedings issued for recovery of amount in respect of non implemented punishment and to direct the authorities to repay the recovered amount to the petitioner.

2.The grievance of the petitioner is that he was issued with an order of recovery, on account of non implemented punishment. Aggrieved against such order of recovery, the petitioner is before this Court.

3.The learned Counsel for the petitioner submitted that the issue involved in this writ petition had already been settled by this Court by order dated 16.11.2012, in WP(MD)No.12824 of 2012 and hence, similar order be passed in this writ petition also.



4.The relevant portions of the above said order read as follows:

"4.When an order of penalty is passed, it is the duty of the disciplinary authority to see as to how far it could be enforced. The disciplinary authority, who imposed the penalty of stoppage of increment for four months with cumulative effect appears to have lost sight of the impending retirement of the petitioner from service. The service of persons like the petitioner are governed by the Standing Orders issued under the Industrial Employment (Standing Orders) Act. Though stoppage of the increment for a specified duration, can be converted into recovery of the amount equivalent to the same, by virtue of certain provisions contained in the Fundamental Rules, in respect of Government Servants who reach superannuation before such penalties are implemented in full, the same logic may not apply to the employees of Transport Corporations. The provisions of the Fundamental Rules may not per se apply to the Transport Corporation employees.

5.In any event, the order of penalty at least should have taken care of the contingency and made it clear that a recovery of an equivalent amount will be ordered. But the penalty order dated 15.11.2011 does not convert the penalty into one of recovery of the equivalent amount. Therefore, what has actually happened is a recovery without any order and that too effected after retirement. It is wholly illegal. In view of the above, the writ petition is allowed directing the respondent to settle all the terminal benefits without any recovery to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. If the amount has already been paid, the same shall be deducted. No costs."

5.The learned Standing Counsel appearing for the respondents has not seriously objected to the above submission.

6.Under such circumstances, in the light of the above cited decision, the writ petition is disposed of, directing the respondents to repay the recovered amount within a period six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)



To

1.The Managing Director,  
Tamil Nadu State Transport Corporation (Madurai) Ltd.,  
Madurai.

2.The General Manager,  
Tamil Nadu State Transport Corporation (Madurai) Ltd.,  
Dindigul Region, Dindigul.

3.The Branch Manager,  
Dindigul II Branch, Dindigul.

+1CC TO MR.G.M.XAVIER, Advocate Sr. No. 60366

W.P(MD)No.8520 of 2019

and

W.M.P. (MD)No.6660 of 2019

10.04.2019

NRK(CO)

TR (03.05.2019) 3P 5C