



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :12.03.2019

CORAM:

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

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**WP(MD)No.21876 and 21877 of 2015 and 2018 of 2017
and
MP(MD)Nos.1 and 1 of of 2015 and WMP(MD)No.1662 of 2017**

WP(MD)No.21876 of 2015

P.Rajamani

... Petitioner

Vs.

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

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

3.The Branch Manager,
Theni Depot,
Theni.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in Reference No.Ma.Ni.P/E5/737 dated 28.10.2015 passed by the 2nd respondent and quash the same as illegal and arbitrary and consequently, issue suitable direction against the respondents within the time contemplated in the provision of law without delay.

WP(MD)No.21877 of 2015

C.Thangaraj

... Petitioner

Vs.

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

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



3.The Branch Manager,
Theni Depot,
Theni.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in Reference No.Ma.Ni.P/E3/736 dated 28.10.2015 passed by the 2nd respondent and quash the same as illegal and arbitrary and further directing the 2nd respondent to repay the recovered amount of Rs.11,674/- within the time contemplated in the provision of law without delay.

WP(MD)No.2018 of 2017

K.Lakshmanan

... Petitioner

Vs.

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

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

3.The Branch Manager,
Pudukulam Depot,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records relating to the original impugned order in reference No. PA SI THU/E11/3 dated 18.01.2017 in so far as ordering recovery of Rs. 1,33,562.40/- towards non-implemented punishment passed by the 2nd respondent and quash the same as illegal within the time contemplated in the provision of law without delay.

For Petitioners : Mr.G.M.Xavier

For Respondents : Mr.A.Jayaram
in all WPs

COMMON ORDER

The prayer in these writ petitions are 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 petitioners.



2.The grievance of the petitioners is that they were issued with an order of recovery, on account of non implemented punishment. Aggrieved against such order of recovery, the petitioners are before this Court.

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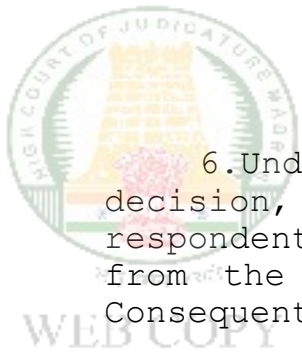
3.The learned Counsel for the petitioners submitted that the issue involved in these writ petitions had already been settled by this Court by order dated 16.11.2012, in WP(MD)No.12824 of 2012 and hence, similar order be passed in these writ petitions also.

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, these writ petitions are 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 petitions are closed.

Sd/-

Assistant Registrar (AE)

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Sub Assistant Registrar (CS)

dsk

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,
Theni Depot, Theni.
4. The General Manager,
Tamil Nadu State Transport Corporation,
(Madurai) Ltd,
Madurai Region, Madurai.
5. The Branch Manager,
Pudukulam Depot, Madurai.

+3CC TO MR.G.M.XAVIER, Advocate Sr. No. 53807, 53806 & 53804

ORDER MADE IN
WP (MD) No. 21876 and 21877 of 2015
and 2018 of 2017
12.03.2019

TR (10.04.2019) 7P 9C