



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :26.02.2019

CORAM:

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

WEB COPY

WP(MD)Nos.25248 of 2018 and 3605 of 2019

R.Maria Sebastian ... Petitioner in WP(MD)No.25248 of 2018

M.Sundararajan ... Petitioner in WP(MD)No.3605 of 2019

Vs.

The Management of
Tamil Nadu State Transport Corporation (Tirunelveli) Ltd,
Tirunelveli Region,
Represented by its Managing Director,
Tirunelveli. ... Respondents in both WPs

PRAYER in WP(MD)No.25248 of 2018: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondent to refund the amount of Rs.72,000/- recovered from the terminal benefits of the petitioner in the name of uneffected portion of increment cut punishment, together with 6% interest per annum.

PRAYER in WP(MD)No.3605 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondent to refund the amount of Rs.21,060/- recovered from the terminal benefits of the petitioner in the name of value of punishment uneffected period, together with 6% interest per annum.

For Petitioners	: Mr.S.Arunachalam
For Respondent	: Mr.K.Sathiya Singh
	in both WPs

COMMON ORDER

The prayers in these writ petitions are seeking to direct the authorities to repay the recovered amount from the terminal benefits of the petitioners, to them.

2.The grievance of the petitioners is that certain amount has been deducted from the terminal benefits of the petitioners, on account of non implemented punishment. The petitioners also submitted representations in this regard to the respondent. However, till date the amount has not been repaid to them. Hence, the petitioners are before this Court.

3.The learned Counsel for the petitioners submitted that the issue involved in these writ petitions had already been settled by this Court by judgment dated 30.03.2007, in WA(MD)Nos.465 of 2017



Batch and hence, similar order be passed in these writ petitions also.

4. The relevant portion of the above said judgment reads as follows:

"37. One more important aspect, which we wish to point out is that, the Management cannot plead ignorance of the fact that, on the date, when punishment was imposed on the workmen, the punishment was not capable of being implemented as workmen did not have the required remaining years of service. If that is so, the Management cannot take shelter under the explanation contained Clause 4 (1) (e) to suit its own convenience, and the workmen cannot be put in a disadvantageous position. In such circumstances, the Management cannot rely on the decision of the Hon'ble Supreme Court in Kshetrabasi Mohanti (supra) where, the Hon'ble Supreme Court considered the correctness of the order by substituting the punishment for a candidate, who was still in service. There, it was a case, where, it was not possible for the Corporation to implement the punishment, but, the case on hand, is a case, where, the Corporation was fully aware of remaining years of service in respect of each of the workmen, yet, chose to pass such orders of recovery. Thus, the Management, having failed to convert the punishment of stoppage of increment to that of order of recovery of monetary value, when the workmen were in service, it cannot turn around and say that those orders could be implemented by invoking Clause 25 (iv) (b) of the Certified Standing Orders."

5. The learned Standing Counsel appearing for the respondent 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 to the petitioners within a period six weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)



To
The Managing Director,
Tamil Nadu State Transport Corporation (Tirunelveli) Ltd,
Tirunelveli Region,
Tirunelveli.

2 CC to M/s.K.SATHIYA SINGH, Advocate (SR-49987,49990)

+2 CC to M/s.S.ARUNACHALAM, Advocate (SR-50070,50071)

ORDER MADE IN
WP (MD) Nos.25248 of 2018 and 3605 of 2019

26.02.2019

DS/ /SAR- (15.04.2019) 3P 6C