



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.20036 of 2017
and W.M.P(MD)No.17531 of 2017

V.Mariyappan

... Petitioner

Vs.

The Management of Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Trichy Region,
Rep. by its General Manager,
Trichy.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the respondent to refund the amount of Rs.1,98,316/- recovered from his terminal benefits in the name of increment cut, together with 18% interest p.a.

For Petitioner : Mr.S.Arunachalam

For Respondent : Mr.D.Sivaraman

ORDER

This writ petition has been filed seeking issuance of a writ of Mandamus, to direct the respondent to refund the amount recovered from the terminal benefits of the petitioner together with interest.

2.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

3.The learned counsel appearing for the petitioner submitted that the issue involved in this writ petition is squarely covered by the Judgment of the Division Bench of this Court in **W.A(MD)Nos.465 of 2017 and batch cases etc., (P.Sundarajan Vs. The Management of Tamil Nadu State Transport Corporation)** and hence, prayed for passing similar order in this writ petition also.

4.Though the learned counsel for the respondent took notice as early as on 02.11.2017, no counter has been filed by the respondent till date.



5. In **W.A(MD) Nos. 465 of 2017 and batch cases etc., (P. Sundarajan Vs. The Management of Tamil Nadu State Transport Corporation)**, the Division Bench of this Court has passed the following order:

"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 is 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-Gratuity (DCRG) payable on expiry of three months even in respect of a Government servant, against whom, disciplinary proceedings 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 off 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.

39. In the result, the first set of writ appeals filed by the Management are dismissed, the second set of writ appeals filed by the workmen are partly allowed, and the third and last set of writ appeals filed are allowed, with a direction to the Management to settle the entire terminal benefits to the workmen in twelve equated monthly installments together with the simple interest at 6% per annum on the expiry of three months from the date of retirement of the concerned workman, in default, to pay interest at the rate of 18% per annum from the date of retirement till the date of payment. The first monthly installment shall commence from November, 2017 and the terminal benefits shall be paid on or before 10th of the said month, and the remaining installments shall be paid on or before the 10th day of every succeeding month. No costs.



Consequently, connected Miscellaneous Petitions are closed."

6.Following the same, this Writ Petition is disposed of directing the respondent to consider the claim of the petitioner seeking to refund the recovered amount from the petitioner in the light of the Judgment in **W.A(MD)Nos.465 of 2017 and batch cases etc., (P.Sundarajan Vs. The Management of Tamil Nadu State Transport Corporation)** and pass appropriate orders on merits and in accordance with law, after affording due opportunity of hearing to the petitioner. Such an exercise shall be completed within a period of four 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()

To

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

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-50832[F] dated 01/03/2019)
+1 CC to M/s.S.ARUNACHALAM, Advocate (SR-50851[F] dated
01/03/2019)

KK/SAR- /04.04.2019/3P/4C/

W.P (MD) No.20036 of 2017
28.02.2019