



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2019

CORAM:

**THE HONOURABLE MR. JUSTICE M. GOVINDARAJ**

W.P(MD)Nos.16326 and 22236 of 2019

and

W.M.P. (MD)No.19005 of 2019

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**W.P(MD)No.16326 of 2019:**

S.Veerakumar

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,  
Represented by its Secretary Government,  
Transport Department,  
Secretariat, Chennai 600 009.
- 2.The Managing Director,  
Tamil Nadu State Transport  
Corporation (Kumbakonam) Ltd.,  
No.27, Railway Station Road,  
Kumbakonam, Thanjavur District.
- 3.The General Manager,  
Tamil Nadu State Transport  
Corporation (Kumbakonam) Ltd.,  
Trichy Region, Periyamilaguparai, Trichy.
- 4.The General Manager,  
Tamil Nadu State Transport  
Corporation (Kumbakonam) Ltd.,  
Karur Region, Karur.
- 5.The Administrator,  
Tamil Nadu State Transport Corporation  
Employees Pension Fund Trust,  
Thiruvalluvar House,  
Pallavan Salai, Chennai - 600 002.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of declaration, declaring the action of 2 to 4 respondents which having been recovered a sum of Rs.4,14,219/- towards non-implementable punishment of increment cut imposed on the petitioner as illegal, arbitrary and violative of Article 14 of the Constitution of India and consequently, direct the respondents to refund the said recovered amount to the petitioner and settle pension amount together with 6% interest payable to the petitioner with effect from 08.10.2015.



For Petitioner : Mr.N.Sudhagar Nagaraj  
For R1 : Mr.J.Gunaseelan Muthiah,  
Additional Government Pleader

For R2 to R4 : Mr.P.Balasubramanian

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**W.P(MD)No.22236 of 2019:**

S.Thiyagarajan

... Petitioner

Vs.

1. Y.D.69 Tamil Nadu States Transport Corporation,  
(Kumbakonam Division -II) Employees Co-operative  
Thrift and Credit Society Limited,  
No.3, Salai Road,  
Tiruchirapalli - 620 018.

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

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari, to call for the records relating to the impugned notice passed by the first respondent dated 10.09.2019 and quash the same.

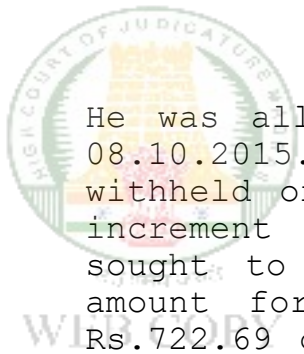
For Petitioner : Mr.N.Sudhagar Nagaraj  
For R1 : Mr.D.Sadiqraja  
For R2 : Mr.P.Balasubramanian

**COMMON ORDER**

The Writ Petition in W.P(MD)No.16326 of 2019 has been filed to declare the action of respondents 2 to 4, receiving a sum of Rs.4,14,219/- towards non-implementable punishment of increment cut imposed on the petitioner, as illegal, arbitrary and violative of Article 14 of the Constitution of India and consequently, direct the respondents to refund the said recovered amount to the petitioner and settle pension amount together with 6% interest payable to the petitioner with effect from 08.10.2015.

2.The Writ Petition in W.P(MD)No.22236 of 2019 has been filed to quash the impugned notice issued by the first respondent dated 10.09.2019.

3.The Petitioner in W.P(MD)No.16326 of 2019 was working as a Senior Conductor in the fourth respondent's Transport Corporation.



He was allowed to be discharged from duty on medical grounds on 08.10.2015. On the date of retirement, his terminal benefits were withheld on the ground that he suffered punishment of stoppage of increment with cumulative effect. This non-implemented increment sought to be recovered from the discharged employee. The total amount for four hundred and fifty six months at the rate of Rs.722.69 comes to Rs.3,29,551/-(456 x 72269). Out of this amount, the Transport Corporation has already adjusted Rs.1,95,378/- from his gratuity account. Challenging the action of the fourth respondent, the petitioner is before this Court.

4.The learned counsel appearing for the petitioner, in support of his contention, would rely on the judgment of the Honourable Division Bench of this Court in W.A.(MD)No.886 and 887 of 2017, dated 12.07.2017, wherein it is held that recovery made from the employee on the head of non-implemented punishment of increments was illegal.

5.The present case on hand is also identical and I respectfully follow the same and hold that deduction of non-implemented punishment of increment in the present case is to be declared as illegal.

6.The respondent has taken a stand that totally a sum of Rs.2,85,264/- is due from the employee under these heads.

**Particular for Recoveries Payable to the Corporation:**

|                           |                  |
|---------------------------|------------------|
| 1.Marriage Loan           | - Rs. 23,144.00  |
| 2.Marriage Loan Interest  | - Rs. 10,222.00  |
| 3.Advance Salary adjusted | - Rs. 5,630.00   |
| 4.ID Card                 | - Rs. 1,200.00   |
| 5.Co-op Tex Loan          | - Rs. 10,063.00  |
| 6.Labour Welfare Fund     | - Rs. 10-00      |
| 7.Cash Back Labour        | - Rs. 270-00     |
| 8.TNSTC Credit Society    | - Rs.2,34,725.00 |
| -----                     |                  |
| Total                     | - Rs.2,85,264.00 |
| -----                     |                  |

7.As per the above table, a sum of Rs.50,539/- is due to corporation by the petitioner under various heads. This amount can be adjusted from the gratuity amount due to the petitioner to the tune of Rs.1,95,378/-.

8.The balance amount shall be disbursed to the employee with interest at the rate of 7.5% per annum from the date of retirement of the employee i.e., from 08.10.2015 till the date of payment. At the time of disbursement, the amount due to the TNSTC Credit Society to the tune of Rs.2,34,725/- can be adjusted and paid to the society. Balance amount of due shall be paid to the employee.

9.In the event the amount disbursed by transport corporation is not sufficient to satisfy the loan and still there is balance of



loan to the society, it shall be paid by the petitioner with interest at the rate of 7.5% per annum. On such payment, the writ petitioner in W.P.(MD)No.16326 of 2019 will be discharged and the society cannot demand any payment as claimed through the impugned order dated 10.09.2019.

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10.Insofar as the pension arrears as claimed by the petitioner against the fifth respondent is concerned, a direction is issued to the fifth respondent to calculate the pension arrears and disburse the same to the petitioner within a period of four weeks from the date of receipt of a copy of this order with interest at the rate of 7.5% per annum.

11.Hence, the Writ Petition in W.P(MD)No.16326 of 2019 is disposed of with the above direction.

12.In view of the order passed in W.P(MD)No.16326 of 2019, no further orders are required in W.P(MD)No.22236 of 2019. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

To  
The Government of Tamil Nadu,  
The Secretary, Transport Department,  
Secretariat, Chennai 600 009.

+2CC to M/s. P.Balasubramanian, Advocate, sr.No.98171, 98170

+2CC to M/s.N.SUDHAGAR NAGARAJ, Advocate ( SR-98262,98263[F] dated  
14/11/2019 )  
das

W.P(MD)Nos.16326 and 22236 of 2019  
and  
W.M.P. (MD)No.19005 of 2019  
13.11.2019

SMA/09/12/19/4P/6C