



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.20664 of 2019

K.Vairan

... Petitioner

-Vs-

1.The Government of Tamil Nadu,
Represented by its Secretary to Government,
Transport Department,
Secretariat, Chennai-600 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
No.27, Railway Station Road,
Kumbakonam, Thanjavur District.

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

4.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 for issuance of Writ of Declaration, declaring the action of the respondents 2 and 3 which having been recovered a sum of Rs.2,19,993/- 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 of Rs.2,19,993/- to the petitioner and settle gratuity and arrears of pension together with 6% interest payable to the petitioner with effect from 30.09.2011 within the stipulated time that may be fixed by this Court.



For Petitioner : Mr.N.Sudhagar Nagaraj
For R1 : Mr.S.Ramar
Additional Government Pleader
For R2 & R3 : Mr.D.Sivaraman

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ORDER

This Writ Petition is filed to declare the action of the respondents 2 and 3, in recovering a sum of Rs.2,19,993/- towards non-implemented 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 of Rs.2,19,993/- to the petitioner and settle gratuity and arrears of pension together with 6% interest payable to the petitioner with effect from 30.09.2011.

2.The petitioner was working as a Driver in the 2nd and 3rd respondents Branch. He retired from service on 30.09.2011, on attaining the age of superannuation. The grievance of the petitioner is that he had been affected by heart ailments. Hence, he had taken medical leave, at the time of treatment, with prior permission from his superior authority of the 3rd respondent Corporation. But, the petitioner's medical leave was rejected by the 3rd respondent Corporation. For that reason, the 2nd and 3rd respondents recovered a sum of Rs.2,19,993/- towards non-implemented punishment of increment cut imposed on the petitioner. Therefore, the petitioner has filed the present Writ Petition, claiming the relief as stated above.

3.Heard Mr.N.Sudhagar Nagaraj, learned counsel appearing on behalf of the petitioner, Mr.C.Ramar, learned Additional Government Pleader appearing on behalf of the first respondent and Mr.D.Sivaraman, learned counsel appearing on behalf of the respondents 2 & 3.

4.This issue was already considered by the Division Bench of this Court, by the judgment dated 12.07.2017, made in W.A.(MD) Nos.886 and 887 of 2017, and the relevant portion reads as follows:-

"2.The respective first respondent in both the writ appeals were working as Selection Grade Conductors in the appellant Corporation and they retired from service on 31 May 2011 and 30 April 2015 respectively. After their retirement, the General Manager, TNSTC Corporation, Trichy, served the impugned proceedings, whereby a sum of Rs.28,494/- and Rs.1,60,409/- were ordered to be recovered from the respective writ petitioners towards "non-implemented punishment of increment cuts".

3.Aggrieved by the same, the respective first respondents herein filed W.P.(MD)No.19730 of 2016 and



20370 of 2016, seeking a declaration that the action of the Corporation in imposing recovery on them towards "non implemented punishment of increment cuts" and recovering the same from their terminal benefits was illegal. They sought a consequential direction for payment of said amount with interest. The learned Judge allowed the writ petitions as prayed for. Aggrieved by the same, these intra court appeals have been preferred.

4.The learned counsel appearing for the Corporation could not dispute the factual position that in the standing orders applicable to employees / respective first respondents there is no provision to effect such recoveries. The learned single Judge following the order dated 24 February, 2015, rendered by an earlier Division Bench in W.A.(MD)Nos.52 to 54 of 2015, held that permitting the Corporation, to deduct the "non implemented punishment of increment cuts" cannot be considered as just or equitable. The case on hand is clearly covered by the aforesaid earlier Division Bench decision and the learned single Judge was right in the following same.

5.The learned counsel appearing for the appellant could not persuade us to take a different view from what was already taken in W.A.(MD)Nos.52 to 54 of 2015, dated 24 February, 2015.

6.There are no merits in these writ appeals. These writ appeals stand dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed."

5.The issue involved in the present Writ Petition is covered by the said judgment. In view of the same, this Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar(AS)

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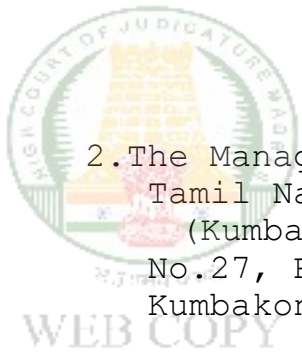
Sub Assistant Registrar(CS)

msa

To

1.The Secretary to Government,
Government of Tamil Nadu,
Transport Department,
Secretariat, Chennai-600 009.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
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Corporation Employees Pension Fund Trust,
Thiruvalluvar House,
Pallavan Salai, Chennai-600 002.

+1CC TO MR.D.SIVARAMAN, Advocate Sr. No.92323
+1CC TO MR.N.SUDHAGAR NAGARAJ, Advocate Sr. No. 92635
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 92477

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SCR(CO)
TR(05.11.2019) 4P 8C