IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2020

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.Nos.30641 & 33273 to 33276 of 2004

A. Thomas Gerad ...Petitioner(in W.P. No.30641 of 2004)

I. Savarimuthu ...Petitioner(in W.P. No.33273 of 2004)

M.M. Prabhakar ...Petitioner(in W.P. No.33274 of 2004)

M. Mathizhagan ...Petitioner(in W.P. No.33275 of 2004)

M. Selvaraj ...Petitioner(in W.P. No.33276 of 2004)

.Vs.

Neyveli Lignite Corporation Ltd.,
Rep. By its Chief General Manager,
T.S. II, Neyveli - 7. ...Respondent (in All Writ Petitions)

Prayer: Writ Petitions filed praying to issue appropriate writs, orders or directions and in particular issue a writ in the natuer of Certiorarified Mandamus after calling for the records relating to the order in Proc. No.CGM/TS-II/EI-1/021/37787 dated 4.09.2004, Proc. No.CM/MS/P&D/E-II/1135/2003 dated 18.12.2003, Proc. No.CM/MS/P&D/E-II/1135/2003 dated 18.12.2003, Proc. No.CM/MS/P&D/E-II/1135/2003 dated 18.12.2003, Proc. No.CM/MS/P&D/E-II/1135/2003 dated 18.12.2003, and Proc. No.CM/MS/P&D/E-II/1135/2003 dated 18.12.2003 respectively passed by the respondent and consequently direct the respondent to pay the balance amount based on the earlier LTC rules.

For Petitioners : Ms.V.Porkodi
(For V.Ajoykhose)
For Respondent : Mr.N. Nithianandan
(In all W.Ps.)

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COMMON ORDER

These writ petitions have been filed praying to issue a writ of Certiorarified Mandamus relating to the order in Proc. No.CGM/TS-II/EI-1/021/37787 dated 4.09.2004, Proc.

No.CM/MS/P&D/E-II/1135/2003 dated 18.12.2003, Proc. No.CM/MS/P&D/E-II/1135/2003 dated 18.12.2003, Proc. No.CM/MS/P&D/E-II/1135/2003 dated 18.12.2003, Proc. No.CM/MS/P&D/E-II/1135/2003 dated 18.12.2003, and Proc. No.CM/MS/P&D/E-II/1135/2003 dated 18.12.2003 respectively passed by the respondent and consequently direct the respondent to pay the balance amount based on the earlier LTC rules.

2. The petitioners are employees in the respondent corporation holding various posts. The regular employees of the respondent corporation are entitled to Leave Travel Concession, (hereinafter referred to as "L.T.C") as provided in the rules. There are two types of L.T.C as contemplated in the L.T.C rules of the respondent corporation. The first type of L.T.C-I is for the travel to home town and the return journey which can be availed once in a block of two consecutive calender years whereas the second type of L.T.C-II is for travel to any place in India which can be availed once in a block of four consecutive calender years during declared holidays or by availing leave to his/her credit. It is stated that as per the L.T.C rules, the employees are entitled to reimbursement of actual fare, for the onward and return journeys under both types of L.T.C. While being so, the petitioners have availed the benefit of L.T.C-II for travelling in India. However, after granting the benefit of L.T.C-II, the respondent passed the impugned orders to recover the excess amount paid to the employees, from the salary of the petitioners in 12 monthly instalments. Against the aforesaid impugned proceedings, the petitioners have approached this Court to set aside the same.

4.The learned counsel for the petitioners in all the writ petitions would submit that new rules have been effected only in the year 2003 whereas the petitioners have travelled on tour and claimed the benefit of the LTC-II as stated in their respective writ petitions, before new rules coming into effect. The respondent corporation passed impugned order directing to recover the amount as per the new rules of L.T.C-II which was availed before new rules coming into effect. Therefore, the order passed by the respondent corporation is to recover the amount retrospectively from the salary of the petitioners in the instalment basis. It is further submitted that as per the old rules of L.T.C, there was no limitation for distance of travel determined for claiming the L.T.C and only in the new rules of L.T.C that has been fixed to the effect that the limitation for distance of travelling upto 1500 Kilo-meters to claim the L.T.C. Therefore, the respondent corporation is not entitled to recover the amount as per the new rules of L.T.C. which was claimed as per the old rules of L.T.C. However, the respondent corporation is not entitled to claim the excess amount paid to the employees. In support of her contention, the learned counsel for the petitioner has relied on the Judgment of the Supreme Court in the case of "State of Punjab and others vs. Rafiq Masih (White Washer) and others" reported in (2015) 4 Supreme Court Cases 334, wherein it is held that the employer is not entitled to recover the amount paid in excess to employees. Therefore, the learned counsel submits that the impugned orders passed by the respondent corporation is liable to be set aside and this Court may be pleased to allow these writ petitions.

5. Per contra, the learned Counsel appearing for the respondent would submit that even in the old rules of L.T.C, the maximum distance up to 1500 Kilo-meters had been determined to travel on tour for availing the benefit under L.T.C. Rules. The recovery of the excess amount has been effected as per the old rules and not the new rules of L.T.C. It was ascertained on review of L.T.C bills submitted by the petitioners that the petitioners have claimed the excess amount under L.T.C beyond their eligibility level for which purpose the excess amount has been recovered. Hence, the contention made by the learned counsel for the petitioner is unsustainable and liable to be rejected. Therefore, the Writ petition is liable to be dismissed.

6. Heard and perused the records.

7. Admittedly, the petitioners have been working in various posts in the respondent corporation as stated in their respective affidavits and availed the benefits of L.T.C-II for up and down journey. The petitioners have produced the details of journey and number of tickets in the respondent corporation to avail the benefit of L.T.C-II. In the claim of the L.T.C-II, the petitioners have claimed the excess amount under L.T.C. beyond their permitted level as per L.T.C. rules. Hence, the respondent has recovered the amount which was paid excessively under L.T.C., from the petitioners in 12 monthly instalments from their salary as per proceedings issued by them.

8. On a perusal of the entire records and as per the contention made by the respondent, it is seen that the limitation of the distance of travelling upto 1500 kilometers has been fixed in the old rules of L.T.C and therefore, the contention of the learned counsel for the petitioner is not sustainable. Further, the learned counsel for petitioners is not able to prove to the effect that the recovery of the amount has been ordered in accordance with the new rules and not in old rules of L.T.C. Reliance made on the Judgment of the Supreme Court placed by the petitioners is not applicable to the present case since the excess amount was paid to the retired employees belonged to Class III & Class IV(Groups C&D) in the wrongful determination of emoluments in which the recovery is not permissible whereas in this case, it is recovery of the excess

amount claimed by the petitioners under L.T.C and not the payment of salary or emoluments of the petitioners.

9. In view of the above discussions and observations, there is no merit in the writ petitions filed by the petitioners and they are liable to be dismissed. Accordingly, the writ petitions are dismissed. No costs. Consequently connected miscellaneous petitions are closed if any.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To:

The Chief General Manager,
Neyveli Lignite Corporation Ltd.,
T.S. II, Neyveli - 7.

+5cc to N.Nithianandam, Advocate, Sr.Nos.39280, 39278, 39281, 39282 & 39283

W.P.Nos.30641 & 33273 to 33276 of 2004

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