

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2020

C O R A M

THE HONOURABLE Mr.JUSTICE M.GOVINDARAJ

W.P.No.7540 of 2010
and M.P.No.1 of 2010

N.Anandan

.. Petitioner

-Vs.-

1. Tamilnadu State Transport Corporation (Villupuram) Ltd.,
Rep by its Managing Director,
Villupuram District.
 2. The General Manager,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Vellore Region, Rangapuram,
Vellore-9.
 3. The General Manager,
Tamilnadu State Transport Corporation,
Thiruvannamalai Region,
Thiruvannamalai
- .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of declaration, declaring that the order dated 03.10.2005 issued by the second respondent in Memo.No.140169/Sa4/Tha.Po.Ka.2003 and also the action of the respondents in implementing the reduction of pay in the present scale of pay instead of implementing the reduction of pay in the scale of pay which in force at the time when the penalty was imposed and also the action of the respondents in not granting the petitioner the annual increments from 2004, not granting him the second review and the benefit of wage revision as per 12 (3) settlement dated 06.02.2008 and other benefits as illegal and consequently direct the respondents to grant him annual increments from 2004 and grant him second review, wage revision as per 12(3) settlement dated 06.02.2008 with arrears and other consequential benefits, award costs.

For petitioner	...	Mr.V.Ajoy Khose
For respondents	...	Mr.C.S.K.Sathish

O R D E R

The petitioner has filed the above Writ Petition seeking to issue a Writ of declaration, declaring that the order dated 03.10.2005 issued by the second respondent in Memo.No.140169/Sa4/Tha.Po.Ka.2003 and also the action of the respondents in implementing the reduction of pay in the present scale of pay instead of implementing the reduction of pay in the scale of pay which was in force at the time when the penalty was imposed and also the action of the respondents in not granting the petitioner the annual increments from 2004, not granting him the second review and the benefit of wage revision as per 12 (3) settlement dated 06.02.2008 and other benefits as illegal and consequently direct the respondents to grant him annual increments from 2004 and grant him second review, wage revision as per 12(3) settlement dated 06.02.2008 with arrears and other consequential benefits, award costs.

2. The petitioner, while he was working as a driver in the respondent-Corporation, caused an accident due to rash and negligent driving. In the said accident, two persons died on the spot. The second respondent had initiated disciplinary action against the petitioner and imposed the punishment of reduction of pay to the initial stage and thereby, the basic pay of Rs.6,315 was reduced and his pay was fixed at Rs.4320-60-4800-65-5775 for a period of 3 years. After lapse of 3 years, the petitioner would be entitled to the restoration of basic pay of Rs.6,315/. The order of punishment came to be passed by the second respondent on 03.10.2005 in Memo.No.140169/Sa4/Tha.Po.Ka.2003 dated 03.10.2005. Had it been implemented with effect from the year 2005, it would have been over by September-October 2008. It is also relevant to point out that after imposition of the punishment, the Union went for settlement under Section 12(3) of the Industrial Disputes Act for revision of wages for the years 2008, 2011 and 2015. The respondents have implemented the punishment imposed by order dated 03.10.2005 in the year 2010, by which, the petitioner is said to have lost the excess amount than that was imposed in the year 2005.

3. The learned counsel for the petitioner had raised the ground challenging the quantum of punishment, as it was not specified in the Standing Orders of the respondents-Corporation. However, he is not insisting on that point and accepted the punishment, as it was imposed by the respondents. Now, the scope of judicial review is narrowed down as to the period to which the punishment should be imposed. The punishment order was passed on 03.10.2005. However, the respondent-Corporation has chosen to implement only in the year 2010. Had it been

implemented with effect from the year 2005, it would have been over by September-October 2008.

4. In the considered opinion of this Court, there was no impediment by way of stay or interim orders by the Tribunal or Courts restraining the respondents from implementing the punishment. As contended by the learned counsel for the respondents, deputation or transfer of the petitioner from original place of work, might have delayed the implementation. However, what was intended originally was to implement the punishment from the year 2005, but it was implemented only from the year 2010, which is unreasonable and it will amount to excess punishment. Therefore, a direction is issued to the respondents to implement the punishment from 03.10.2005 and deduct the appropriate amount for a period of 3 years from 2005 and to restore the basic pay, after a lapse of 3 years, that is to say from the year 2008 and calculate the consequential payment restoring the basic pay from 2008. The petitioner had retired from his service on 28.02.2017. Therefore, he is entitled to get all monetary benefits whatever is due on restoration of his basic pay with effect from 2008 till the date of his retirement. The respondents are directed to calculate the appropriate amounts accordingly and disburse the same due to the petitioner, within a period of six months from the date of receipt of a copy of this order. However, it is made clear that the petitioner is not entitled to get the interest for the belated payment.

5. The Writ Petition is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

srn
To

1. The Managing Director
Tamilnadu State Transport
Corporation (Villupuram) Ltd.,
Villupuram District.
2. The General Manager,
Tamil Nadu State Transport
Corporation (Villupuram) Ltd.,

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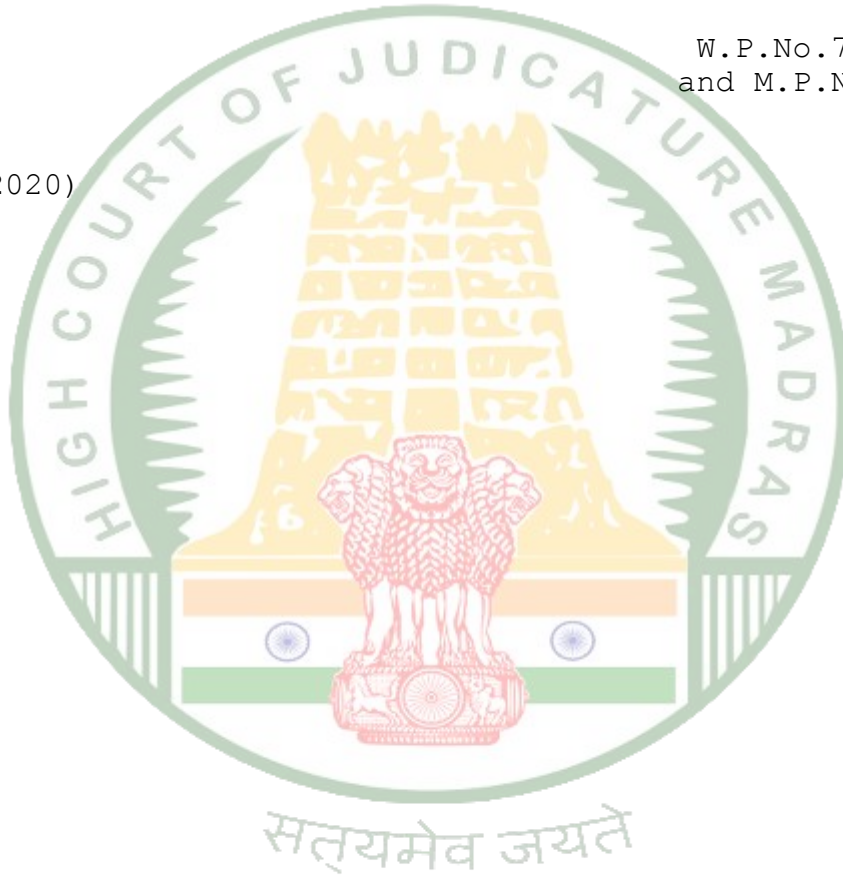
Vellore Region, Rangapuram,
Vellore-9.

3. The General Manager,
Tamilnadu State Transport Corporation,
Thiruvannamalai Region,
Thiruvannamalai

+1 CC to Mr.C.S.K.Sathish, advocate sr 12648
+1 CC to Mr.V.Ajoy Khose, Advocate sr 12811.

W.P.No.7540 of 2010
and M.P.No.1 of 2010

RP (CO)
SP (20/05/2020)



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