



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 21.09.2020
DELIVERED ON : 03.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

W.P(MD).No.1959 of 2015 and
M.P(MD).No.1 of 2015

S. Amir Ibrahim : Petitioner

Vs.

The General Manager,
Tamil Nadu State Transport Corporation
(Madurai) Ltd., Madurai Division No.1,
Bye Pass Road,
Madurai - 625 010.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the impugned order made in Ref.No.Pa SI DU E 5 3261/2014, dated 10.11.2014 passed by the respondent herein.

For petitioner	: Mr. B. Jameel Arasu
For Respondent	: Mr. J. Senthil Kumaraiah Standing Counsel

ORDER

This Writ Petition has been filed to quash the impugned order made in Ref.No.Pa SI DU E 5 3261/2014, dated 10.11.2014 passed by the respondent herein.

2. The service matrix of the petitioner that are required for the case of the Writ Petition as under:

The petitioner was appointed as a Clerk Trainee on 04.10.1980 and promoted as a Superintendent on 12.09.2009 under the respondent and he had discharged his duties satisfactorily to the entire satisfaction of his superiors and he retired from service on 30.06.2010 as a Superintendent.

3. Mr.J. Senthil Kumaraiah, learned Standing Counsel appearing for the respondent would contend that the petitioner was appointed as a Clerk on 04.10.1980 and his service was regularized on 04.10.1981. As per the seniority, he got promotion and finally



he retired as Superintendent on 30.06.2010. He would further contend that the petitioner was promoted as Superintendent on 12.09.2009 in the Basic Pay of Rs.11,270/- and Grade Pay of Rs.4,800/-. On 28.10.2009, one Thiru.K.Abdual Nazar was promoted to the post of Superintendent and at the time of his promotion, his Basic pay was Rs.12,040/- and Grade Pay was Rs.4,800/-. Based on the date of promotion of Thiru.K.Abdual Nazar, 12 Superintendents, who were promoted as Superintendents earlier to Thiru.K.Abdual Nazar, have claimed pay anomaly on the basis of the Basic Pay and Grade Pay of Thiru.K.Abdual Nazar. As per the claim of the above said 12 Superintendents including the petitioner, the Basic pay have been revised on par with that of Thiru. K.Abdual Nazar as Rs.11,270/-.

4. Based upon the audit inspection report, that seven Superintendents including the petitioner were found to be Junior of Thiru.K.Abdul Nazer on the basis of their appointments. Therefore, the Basic Pay of the 7 Superintendents including the petitioner were reduced to their former basic pay of Rs.11,270/- and it was decided to recover the salary paid excessively to the above said Superintendents. For making recovery of Rs.12,606/- from the petitioner towards excessively paid salary, the impugned order was passed by the respondent Corporation. The petitioner has received his salary excessively to the tune of Rs.12,606/- during the period from 28.10.2009 to 30.06.2010 and as such, the petitioner is liable to remit the said amount of Rs.12,606/- to the respondent Corporation. This Court, by order dated 17.02.2015, has granted interim stay. I find that the recovery is sought to be made after a period of five years.

5. The learned counsel appearing for the petitioner would submit that there is deduction of a sum of Rs.583/- in the pension and subsequently, he came to know that there was some audit report and at the time of settlement of retirement benefits, the petitioner was paid some excess amount and a total sum of Rs.34,062/- is going to be recovered on monthly deduction from the pension. Hence, the petitioner has made a representation.

6. The learned counsel appearing for the respondent / Transport Corporation would submit that the petitioner was promoted as Superintendent on 12.09.2009. His basic salary at that time was Rs.11,270/- and last pay was Rs.21,000/-. Since his junior raised an issue, an audit was also made. Thereafter, the petitioner and 7 other Superintendents found to be Junior of one K.Abdul Nazer and thereby, excess salary of Rs.12,606/- was ordered to be recovered from the petitioner. After notice, an order was passed on 10.11.2014 to recover the excess amount.



7. Taking into consideration the fact that the excess salary was fixed for the year 2009-2010, after a period of five years and hence, further recovery is held to be unsustainable. Accordingly, if any recovery is already made, that need not be refunded and in view of that, the balance amount need not be enforced against the petitioner.

8. With these observations, this Writ Petition is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

trp

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The General Manager,
Tamil Nadu State Transport Corporation
(Madurai) Ltd., Madurai Division No.1,
Bye Pass Road,
Madurai - 625 010.

ORDER MADE IN
W.P(MD).No.1959 of 2015
03.11.2020

VR(CO)
TR(24.11.2020) 3P 2C