



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2021

CORAM

**THE HON'BLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY**

W.P. (MD)No.13531 of 2021

and

W.M.P(MD) .Nos.10490 and 10491 of 2021

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A-3083, Tamil Nadu State Transport Corporation  
(Madurai Division-I)  
Rep. by its Managing Director,  
94/4B, Pattukottai Kalyanasundaram Street,  
Bye Pass Road, Madurai 625 010.

... Petitioner

Vs.

1. The Managing Director,  
Tamil Nadu State Transport Corporation  
(Madurai) Ltd.,  
Bye Pass Road, Madurai.

2. The General Manager,  
Tamil Nadu State Transport Corporation  
(Madurai) Ltd.,  
Madurai Region, Madurai.

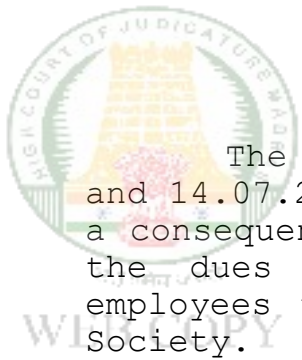
3. The General Manager,  
Tamil Nadu State Transport Corporation  
(Madurai) Ltd.,  
Virudhunagar Region, Virudhunagar.

... Respondents

**Prayer:** Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned communication issued by the first respondent vide reference: CORP/CAD/FIM/FO:48 dated 06.07.2021 and the consequential communication of the second respondent vide reference : பசுது/E2/80/2021 dated 14.07.2021 and quash the same and consequently direct the respondents to continue to effect recovery of due to the petitioner society from the salary of those employees who have entered into an agreement with the petitioner society and in respect of whom requisition have been made by the petitioner society in accordance with section 48 of the Tamil Nadu Cooperative Societies Act.

For Petitioner : Mr.D.Shanmugaraja Sethupathi

For Respondents : Mr.J.Senthil Kumariah,  
Standing Counsel for R1 to R3



**O R D E R**

The petitioner challenges two communications dated 06.07.2021 and 14.07.2021 from the respondents 1 and 2, respectively, and seeks a consequential direction to the respondents to continue to recover the dues of the petitioner-Society from the salary of those employees who have entered into an agreement with the petitioner-Society.

2. The petitioner states that it is a Society registered under the Tamil Nadu Co-operative Societies Act, 1983 and that there are 4100 members in the petitioner-Society as on date. Out of the above members, it is stated that about 2025 members have availed medium-term loans from the Society. The respondents issued the impugned communications stating that they would not deduct the amounts due towards loans taken from the petitioner-Society from amounts payable as salary to the employees and that the petitioner should take necessary steps to recover such amount.

3. Learned counsel for the petitioner contends that the impugned communications are directly contrary to the mandate of Section 48 of the Tamil Nadu Co-operative Societies Act, 1983. In support of his contention, learned counsel refers to and relied upon the order dated 02.03.2009 in W.P(MD).Nos.820 to 822 and 1154 of 2009. In particular, he refers to the extracts from the judgment in W.PNo.30864 of 2008 which are set out in the aforesaid judgment. In those paragraphs, this court held that the obligation imposed by Section 48 of the Tamil Nadu Co-operative Societies Act, 1983 is a statutory obligation and not merely contractual. Consequently, the court proceeded to hold that the employer does not have the right to wriggle out of such obligation.

4. Mr.J.Senthil Kumariah, learned Standing Counsel, accepts notice on behalf of all the respondents. In response to a question as to whether the obligation under Section 48 of the Tamil Nadu Co-operative Societies Act, 1983 is statutory or contractual, he agrees that it is a statutory obligation.

5. In light of the fact that the obligation imposed by Section 48 of the Tamil Nadu Co-operative Societies Act, 1983 is statutory and taking into account the fact that such provision has been interpreted by this court in the order dated 02.03.2009 in W.P(MD). Nos.820 to 822 and 1154 of 2009 as a statutory obligation from which the employer cannot resile, the impugned communications cannot be sustained.

6. In the result, the impugned communications dated 06.07.2021 and 14.07.2021 are quashed. As a corollary, the respondents are directed to continue to effect recovery of dues to the petitioner-Society from the salary of those employees who have entered into an agreement with the petitioner-Society.



7. W.P(MD).No.13531 of 2021 is allowed on these terms without any order as to costs. Consequently, W.M.P(MD).No.10490 and 10491 of 2021 are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar(CS)

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To

1. The Managing Director,  
Tamil Nadu State Transport Corporation  
(Madurai) Ltd.,  
Bye Pass Road, Madurai.

2. The General Manager,  
Tamil Nadu State Transport Corporation  
(Madurai) Ltd.,  
Madurai Region, Madurai.

3. The General Manager,  
Tamil Nadu State Transport Corporation  
(Madurai) Ltd.,  
Virudhunagar Region, Virudhunagar.

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate ( SR-25467[F] dated 06/08/2021 )

W.P. (MD) No.13531 of 2021

**05.08.2021**

RK (12.08.2021) 3P 5C