



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.14801 of 2011
and M.P.No.2 of 2011

V.Kuppuswamy
Assistant Manager,
(Operation)
State Express Transport Corporation Limited,
Tirupathy. ... Petitioner

Vs.

1.The Secretary to Government,
Transport Department,
St.Fort George, Chennai - 9.

2.The Managing Director,
State Express Transport Corporation Limited,
Pallavan Salai, Chennai - 600002. ... Respondents

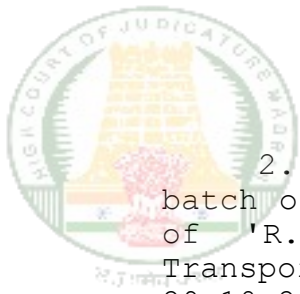
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the letter No.18912/D/2010-2, Transport (D) Dept., dated 12.04.2011 on the file of the first respondent and consequential Circular No.024512/WA1/SETC/2010 dated 26.04.2011 passed by the second respondent and to quash the same as illegal and consequently, direct the respondents to pay House Rent Allowance drawn by the petitioner all along from 01.10.1984 as per G.O.Ms.No.10 Transport Department dated 02.01.1987.

For Petitioner : Mr.L.Chandrakumar

For Respondents: Mr.C.Selvaraj [R1]
Additional Government Pleader
No Appearance [R2]

ORDER

In consequence to the Government's decision dated 23.09.2010, to regulate the House Rent Allowance drawn by the Managerial Cadre Officers with effect from 01.06.2009, the G.O.Ms.No.234, Finance (PC) Department, dated 01.06.2009, came to be passed for recovery of the excess HRA drawn by them from 01.06.2009 onwards. The present impugned order seeks for such a recovery.



2. These recovery proceedings came to be challenged in a batch of writ petitions in WP.No.11532 of 2011 etc., in the case of 'R.Ponmudi & others Vs. The Secretary to Government, Transport Department & another, passed in by order dated 29.10.2021, this Court had held that in cases of the retired employees, no recovery can be made and in cases where the principles of natural justice were not followed, the liberty was granted to the respondents to continue the proceedings after giving opportunity to such serving employees. The relevant portion of the order reads as follows:-

.....
"6. In view of the categorical conclusion of the Hon'ble Supreme Court to the effect that recovery should not be proximate to, or post the date of superannuation of an employee and since, in this case, several of the petitioners are stated to have retired as on date, without going into the merits of the matter, the following order is passed:

i) No recovery shall be made in the case of those petitioners who have retired as on date.

ii) In case of petitioners who continue in service as on date, seeing as the impugned orders have been admittedly passed without compliance with the principles of the natural justice, the same stands set aside and the petitioners shall be heard and orders passed afresh within a period of four (4) weeks from date of receipt of a copy of this order."

3. The petitioner in the present case had retired from service in the year 2016 and in accordance with the aforesaid order, the respondents will not be entitled to recover the excess HRA paid. Accordingly, the impugned order dated 26.04.2011, is quashed. In view of quashing of the impugned order, the petitioner is granted liberty to give a representation to the second respondent for repayment of the excess HRA, which was already recovered and on receipt of such a representation, the second respondent shall pass appropriate orders, refunding the HRA. Such an order shall be passed within a period of four weeks from the date of representation.

4. In the result, this Writ Petition stands allowed and the impugned order dated 26.04.2011, is quashed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar



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To

1.The Secretary to Government,
Transport Department,
St.Fort George,
Chennai - 9.

2.The Managing Director,
State Express Transport Corporation Limited,
Pallavan Salai,
Chennai - 600002.

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.16311
+1cc to the Government Pleader, S.R.No.16684

W.P.No.14801 of 2011

RSI (CO)
SB(31/03/2022)