



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.4916 of 2018 and
W.M.P.No.20321 of 2018

M.Saleem

... Petitioner

Vs.

1.K.Jayasankar,
Secretary,
Thiruvalluvar Transport Corporation
Employees Co-operative Credit society,
No.10, 23rd Street, Jai nagar, Arumbakkam,
Chennai - 600 106.

2.M/s. State Express Transport Corporation Ltd.,
Rep. by its Managing Director,
No.2, Pallavan Salai,
Chennai - 600 002.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the 1st Respondent and their subordinates in any way recovering not more than Rs.8,105/- towards monthly installments from the loan obtained by the petitioner from the 1st Respondent society and consequently direct the 1st Respondent to pay the excess amount of Rs.29,729/- recovered from the salary of the petitioner during November 2017 & January 2018 with 12% interest.

For Petitioner : Mr.D.Soundar Raj

For R1 : Mr.M.Vinoth
for Mr.G.Padmanabhan

For R2 : Mr.D.Dwarakanath
for Mr.K.Kathiresan



O R D E R

This Writ Petition is filed forbearing the 1st respondent and their subordinates in any way recovering not more than Rs.8,105/- towards monthly installments from the loan obtained by the petitioner from the 1st respondent society and for a direction to the 1st respondent to pay the excess amount of Rs.29,729/- recovered from the salary of the petitioner during November 2017 & January 2018 with 12% interest.

2. According to the petitioner, he is an employee of the 2nd respondent-Transport Corporation. He availed loan to the tune of Rs.5,00,000/- from the 1st respondent. As per the terms and conditions of sanctioning loan, the petitioner has to pay a sum of Rs.8,105/- per month towards monthly installment. The 2nd respondent was deducting the said amount from the salary of the petitioner and paid the same to the 1st respondent. The 1st respondent / Society was mismanaged by the Secretary and others. Hence, the petitioner gave a complaint to the Central Registrar of Co-operative Societies and Tamil Nadu Registrar of Co-operative Societies. In view of the complaint given by the petitioner, the 1st respondent insisted the 2nd respondent to deduct a sum of Rs.23,705/- from the salary payable to the petitioner for the month of November 2017 and that the said amount was deducted. Due to malafide attitude of the 1st respondent, the petitioner issued legal notice dated 11.12.2017 to the secretary through Advocate. In view of the said notice, in the month of December 2017, they have deducted only a sum of Rs.8,105/-. But again at the request of the 1st respondent, the 2nd respondent deducted a sum of Rs.22,248/- from the salary of the petitioner in the month of January 2018. Hence, the petitioner has come out with the present Writ Petition.

3. Though the Writ Petition is of the year 2018, the 1st respondent has not filed any counter affidavit.

4. The 2nd respondent has filed counter affidavit and denied all the averments made by the petitioner.

5. Mr. D. Dwarakanath, learned counsel representing Mr. K. Kathiresan, learned counsel appearing for the 2nd respondent submitted that there is no agreement between the 2nd respondent,



1st respondent and petitioner to deduct the installment due to the 1st respondent from the salary of the petitioner. At the time of applying loan application, the 2nd respondent only will verify whether the employee is on leave on loss of pay (LLP) or suspension or in service. The 2nd respondent will first deduct all the statutory dues from the salary of the petitioner towards loan amount and then only deduct the other amount from the balance net salary, so that take home salary of the employee is not less than 1/4th of the salary of the employee and prayed for dismissal of the Writ Petition.

6. Heard the learned counsel appearing for the petitioner, learned counsel appearing for the 1st respondent as well as the learned counsel appearing for the 2nd respondent and perused the entire materials on record.

7. From the materials on record, it is seen that for the loan availed by the petitioner from the 1st respondent, a sum of Rs.8,105/- has to be paid every month as installment for the loan amount. The 2nd respondent, who is the employer of the petitioner was deducting the said amount from the salary of the petitioner and paid the same to the 1st respondent. According to the petitioner, due to complaint given by him against the Secretary of 1st respondent to the Central Registrar of Co-operative Societies and Tamil Nadu Registrar of Co-operative Societies, a sum of Rs.23,705/- was deducted for the month of November 2017 and a sum of Rs.22,248/- was deducted for the month of January 2018, more than the monthly installment to be deducted. The 1st respondent has not filed any counter affidavit and also has not denied such allegation. The 2nd respondent in the counter affidavit filed by him also has not denied that a sum of Rs.23,705/- was deducted for the month of November 2017 and a sum of Rs.22,248/- was deducted for the month of January 2018 from the salary of the petitioner. It is also not denied by the 1st respondent that monthly installment payable by the petitioner is only Rs.8,105/-. The learned counsel appearing for the petitioner submitted that the respondents have deducted more than the monthly installment contrary to the terms and conditions. Therefore, the respondents are liable to refund the excess amount deducted from the salary of the petitioner in November 2017 and January 2018. Hence, the 1st respondent is directed to refund the excess amount recovered from the petitioner within a period of four weeks from the date of receipt of a copy of this order.



8. With the above directions, the Writ Petition is allowed.
Consequently the connected Miscellaneous Petition is closed. No costs.

WEB COPY

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

krk
To

The Managing Director,
M/s. State Express Transport Corporation Ltd.,
No.2, Pallavan Salai,
Chennai - 600 002.

+1cc to M/s.G.Padmanabhan, Advocate Sr.19435
+1cc to Mr.D.Soundar Raj, Advocate Sr.19030

W.P.No.4916 of 2018

pl[col
srg 13/04/2022