



WEB COPY



WP No.35348 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-11-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.35348 of 2016

And

WMP Nos.30433 and 30434 of 2016

A.Jayaraman

..

Petitioner

vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Salem – 636 007.

2.The General Manager,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Salem – 636 007.

3.The Senior Deputy Manager (HRD),
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Salem – 636 007.

4.The Assistant Manager,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Salem – 636 007.

..

Respondents



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Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the orders in (1) Memo No.E8/2009/TNSTC (Salem)/2013 dated 05.08.2013 of the fourth respondent (2) Letter No.PF2/ATC EPFT/227/15 dated 18.03.2015 of the first respondent and (3) Letter No.10864/Sattam TNSTC (Salem) 2015 dated 24.11.2015 of the third respondent to the limited extent of demand for remittance of Rs.3,48,840/- to quash the same and issue consequential directions to the respondents to disburse the pensionary and retirement benefits due to the petitioner consequent on his retirement on 31.07.2013 AN with 12% interest for delayed payment and take separate action for recovery of any amounts payable by the petitioner as per law.

For Petitioner : Mr.J.Muthukumaran

For Respondents : Mr.R.Babu

ORDER

The petitioner is a retired Selection Grade Conductor served in the respondent-Transport Corporation. He was retired from service on 31.07.2013 and at the time of retirement, the monetary benefits in lieu of punishment was recovered from the retirement benefits of the writ petitioner.



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2. The learned counsel for the petitioner mainly contended that the respondents have erroneously calculated the monetary benefits to be recovered. In other words, it is contended that an excess amount has been recovered from the petitioner over and above the punishment imposed. Therefore, the order impugned is liable to be set aside.

3. Admittedly, the petitioner was a workman governed under 12(3) Settlement between the Management and the Union. Once the service conditions are governed under the Industrial Disputes Act, 1947, the workman has to approach the Labour Court for adjudication of the disputed issues effectively.

4. In respect of the present writ petition, if at all the High Court says that the Authorities should reconsider and pass fresh order by remanding the matter back, the same would do no service to the cause of justice. Contrarily, the petitioner would be back again before the Court by challenging the another order, which would be passed by the Management.



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5. Multiplicity of proceedings or driving the litigants repeatedly

to Courts would result in losing of faith in the Justice Delivery System. Such multiplicity is to be always avoided and the Courts are expected to decide the issues on merits and in accordance with law.

6. The power of Judicial Review under Article 226 of the Constitution of India is to be exercised, so as to scrutinise the processes through which a decision is taken by the Competent Authorities, but not the decision itself. Thus the correctness of the calculation cannot be gone into by the High Court in the writ proceedings. It is to be adjudicated with reference to the documents and evidences available on record and for that the petitioner has to approach the Labour Court for effective adjudication and to resolve the issues. Contrarily, the High Court cannot either remand the matter or adjudicate the correctness of the quantum of punishment arrived by the respondents in this matter.

7. This being the factum established, the petitioner is at liberty to approach the Labour Court for adjudication of the disputed issues and in



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the event of any such approach, the Court concerned shall take into consideration the period during which the writ petition was pending before this Court for condoning the delay, if any and adjudicate the issues on merits and in accordance with law and as expeditiously as possible.

8. With the abovesaid liberty, the writ petition stands dismissed.

However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

07-11-2022

Index : Yes/No.

Internet : Yes/No.

Speaking Order/Non-Speaking Order.

Svn

To

1. The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Salem – 636 007.

S.M.SUBRAMANIAM, J.

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2.The General Manager,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Salem – 636 007.

3.The Senior Deputy Manager (HRD),
Tamil Nadu State Transport Corporation (Salem) Ltd.,
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