



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-06-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP NO.3869 OF 2014

AND

MP NO.1 OF 2014

Mrs.Hema Malini alias Selvi

.. Petitioner

vs.

1. The Tamil Nadu State Transport Corporation
(Salem Division-I) Limited,
Represented by the Managing Director,
12 Ramakrishna Road,
Salem - 636 007.

2. The Assistant Manager (Services),
Tamil Nadu State Transport Corporation
(Salem Division-I) Limited,
Represented by the Managing Director,
12 Ramakrishna Road,
Salem - 636 007.

.. Respondents

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 impugned communication No.இ10/2840/த.அ.போக(சேலம்) 2012 dated 21/08/2013 issued by the second respondent and quash the same and direct the respondents to pay the full service benefits payable on account of death of employee late J.Mathimaran (Conductor-CR No.2840, E-II) to the petitioner's family together with interest at 18% per annum.

For Petitioner : Mr.B.Satish Babu

For Respondents : No Appearance



O R D E R

The impugned communication issued by the second respondent reveals that the deceased husband of the writ petitioner was imposed with the punishment of reduction of pay and the said punishment was not implemented during the lifetime of the employee. Accordingly, the sum equivalent to that of the punishment of reduction in pay is sought to be recovered from the terminal benefits due to the deceased employee. The said communication is challenged by the wife of the deceased employee.

2. The learned counsel for the petitioner made a submission that as per the communication, the husband of the writ petitioner was liable to pay a sum of Rs.2,26,920/- and the said amount cannot be recovered from the benefits due to the deceased husband of the writ petitioner.

3. This Court is of the considered opinion that the punishment of reduction in pay was imposed by the respondent-Transport Corporation during the lifetime of the employee. However, the order was not implemented on account of various reasons and in the meanwhile, the employee died.

4. The loss occurred to the respondent-Transport Corporation is to be recovered from the persons concerned. Even in case, the said punishment is not acceptable to the petitioner, the said punishment is to be challenged before the appropriate Court for adjudication.

5. In the present case, the husband of the writ petitioner admittedly was a workman and his services were governed under 12(3) Settlement under the Industrial Disputes Act. Thus for effective adjudication of the disputed issue, the petitioner has to approach the Competent Labour Court for appropriate relief. The High Court cannot conduct an adjudication in respect of the disputed issues in writ proceedings under Article 226 of the Constitution of India.

6. In the absence of recovering the disputed amount, the other benefits could not be settled as the respondent-Transport Corporation has passed an order stating that the said amount due to the respondent-Transport Corporation is to be settled by the writ petitioner. Thus, the writ petitioner has to either deposit the amount due to the respondent-Transport Corporation and receive the balance amount and other pensionary benefits, including the family pension. If the petitioner takes a decision to contest the amount, then the writ petitioner is at liberty to approach the competent Labour Court for the purpose of redressing her grievances. In the event of approaching the Labour Court, the period during which the writ petition was



pending before the High Court is to be taken into consideration for the purpose of condoning the delay if any and the issues are to be decided on merits and in accordance with law.

7. With the abovesaid liberty, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Managing Director,
The Tamil Nadu State Transport Corporation
(Salem Division-I) Limited,
12 Ramakrishna Road,
Salem - 636 007.
2. The Assistant Manager (Services),
Tamil Nadu State Transport Corporation
(Salem Division-I) Limited,
12 Ramakrishna Road,
Salem - 636 007.

+1cc to Mr.S.J.Jagadev, Advocate, S.R.No.32493
+1cc to the Government Pleader, S.R.No.33630

WP 3869 of 2014

SVI (CO)
PM/15/06/2022