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W.P.No.30261 of 2019 and etc., btach

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.30261, 26139, 29916, 29879, 30264, 30268,
31315, 31317, 31319 & 31323 of 2019

and

W.M.P.Nos.30238, 25509, 29831, 29786, 30240,
30243, 31480, 31482, 31485 & 31487 of 2019

W.P.Nos.30261, 30264 & 30268 of 2019:

M.Rangaian

... Petitioner
in all W.Ps.

Vs.

1. The Tamil Nadu Tea Plantation Corporation,
Represented by its General Manager,
Orange Grove Road,
Coonoor – 643 101,
The Nilgiris.

2. The Divisional Manager,
Naduvattam Tea Division,
Tamil Nadu Tea Plantation Corporation,
Naduvattam,
The Nilgiris – 643 101.

... Respondents
in all W.Ps.



W.P.No.30261 of 2019 and etc., btach

Prayer in W.P.No.30261 of 2019: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the Recovery orders passed by the second respondent with regard to the Lorry bearing Regn.No.TN-43-D-1465 in Proc.No.1196/2011/MV dated 28.02.2019 and quash the same as illegal and arbitrary and consequently forbearing the second respondent from deducting the sum of Rs.27,660/- for the shortage of fuel from the petitioner's monthly salary for 30 months.

Prayer in W.P.No.30264 of 2019: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the Recovery orders passed by the second respondent with regard to the Lorry bearing Regn.No.TN-43-C-7735 in Proc.No.1196/2011/MV dated 28.02.2019 and quash the same as illegal and arbitrary and consequently forbearing the second respondent from deducting the sum of Rs.1,66,140/- for the shortage of fuel from the petitioner's monthly salary for 30 months.

Prayer in W.P.No.30268 of 2019: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the Recovery orders passed by the second respondent with regard to the Lorry bearing Regn.No.TN-43-C-7735 in Proc.No.1196/2011 dated 23.09.2019 and quash the same as illegal and arbitrary and consequently forbearing the second respondent from deducting the sum of Rs.2,994.09 respectively for the shortage of fuel from the petitioner's monthly salary.

For Petitioner : Mr.S.Murugan
in all W.Ps.

For Respondents : Mr.Haroon AL.Rasheed
for M/s.T.S.Gopalan & Co.
in all W.Ps.

W.P.Nos.29879 & 29916 of 2019:

1. Mr.Mohana Rajan

... Petitioner



WEB 2. A.Vijayakumar

W.P.No.30261 of 2019 and etc., btach

in W.P.No.29879 of 2019
... Petitioner
in W.P.No.29916 of 2019

Vs.

1. The Tamil Nadu Tea Plantation Corporation,
Represented by its General Manager,
Orange Grove Road,
Coonoor – 643 101,
The Nilgiris.

2. The Divisional Manager,
Coonoor Tea Division,
Tamil Nadu Tea Plantation Corporation,
Coonoor,
The Nilgiris – 643 101.

... Respondents
in both W.Ps.

Prayer in W.P.No.29879 of 2019: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the Recovery order passed in Na.Ka.No.1807/2019/Pa dated 26.08.2019 by the second respondent and quash the same as illegal and arbitrary and consequently forbearing the second respondent from deducting the sum of Rs.18,754/- for the shortage of fuel for the month of March 2019, from the August month salary.

Prayer in W.P.No.29916 of 2019: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the Recovery order passed in Na.Ka.No.1807/2019/Pa dated 26.08.2019 by the second respondent and quash the same as illegal and arbitrary and consequently forbearing the second respondent from deducting the sum of Rs.12,668/- for the shortage of fuel for the month of February 2019 and from the August month salary.

For Petitioner : Mr.S.Murugan



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W.P.No.30261 of 2019 and etc., btach

in both W.Ps.

For Respondents : Mr.Haroon AL.Rasheed
for M/s.T.S.Gopalan & Co.
in both W.Ps.

W.P.No.26139 of 2019:

P.Ramajayam

... Petitioner

Vs.

1. The Tamil Nadu Tea Plantation Corporation,
Represented by its General Manager,
Orange Grove Road,
Coonoor – 643 101,
The Nilgiris.

2. The Divisional Manager,
Kotagiri Tea Division,
Tamil Nadu Tea Plantation Corporation,
Kotagiri,
The Nilgiris – 643 217.

... Respondents

Prayer in W.P.No.26139 of 2019: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the Recovery order in Se.Mu.Aa.No.M.V/236/2019 dated 17.08.2019 passed by the second respondent and Quash the same as illegal and arbitrary and consequently forbearing the Charge Memo in Letter/Memo No.M.V./2019 dated 01.03.2019 and Revised Charge Memo in No.M.V.236/2017 dated 26.05.2019 passed by the second respondent herein.

For Petitioner : Mr.S.Murugan



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For Respondents : Mr.Haroon AL.Rasheed
for M/s.T.S.Gopalan & Co.

W.P.Nos.31323, 31317 & 31315 of 2019:

- | | |
|----------------|---|
| 1. V.Elayaraja | ... Petitioner
in W.P.No.31323 of 2019 |
| 2. M.Angamuthu | ... Petitioner
in W.P.No.31317 of 2019 |
| 3. V.Thangaraj | ... Petitioner
in W.P.No.31315 of 2019 |

Vs.

1. The Tamil Nadu Tea Plantation Corporation,
Represented by its General Manager,
Orange Grove Road,
Coonoor – 643 101,
The Nilgiris.
2. The Divisional Manager,
Cherambady Tea Division,
Tamil Nadu Tea Plantation Corporation,
Cherambady,
The Nilgiris – 643 220.

... Respondents
in all W.Ps.

Prayer in W.P.No.31323 of 2019: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the Recovery order passed in Se.Mu.Aa.No.1173/2018 M.V. dated 26.09.2019 with regard to the vehicles viz. i) TN-43-C-8456 for the period June 2019 to August 2019 to the sum of Rs.44,323/- and ii) TN-43-C-1353 for the period from Oct.2018 to May 2019 to the tune of Rs.53,059/- both totaling for a sum of Rs.97,352/- by the second



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respondent and Quash the same as illegal and arbitrary and consequently forbearing the second respondent from deducting above said sum of Rs.97,352/- for the shortage of fuel in his future monthly salary.

Prayer in W.P.No.31317 of 2019: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the Recovery order passed in Sey.Mu.Aa.No.1173/2018 MV dated 26.09.2019 in respect of Lorry bearing Regn.No.TN-43-C-8456 for the period from October, 2018 to May 2019 for the huge sum of Rs.1,34,159/- and Quash the same as illegal and arbitrary and consequently forbearing the second respondent from deducting the sum of Rs.1,34,159/- for the shortage of fuel from the petitioner's monthly salary.

Prayer in W.P.No.31315 of 2019: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the Recovery order passed in Sey.Mu.Aa.No.1173/2018 M.V. dated 26.09.2019 in respect of Lorry bearing Regn.No.TN-43-C-1353 for a sum of Rs.4,614.00 by the second Respondent and quash the same as illegal and arbitrary and consequently forbearing the second respondent from deducting the sum of Rs.4,614.00/- for the shortage of fuel for the month of June 2019 from the petitioner's monthly salary.

For Petitioners : Mr.S.Murugan
in all W.Ps.

For Respondents : Mr.Haroon AL.Rasheed
for M/s.T.S.Gopalan & Co.
in all W.Ps.

W.P.No.31319 of 2019:

P.Alagumalai

... Petitioner

Vs.



W.P.No.30261 of 2019 and etc., btach

WEB COURT

1. The Tamil Nadu Tea Plantation Corporation,
Represented by its General Manager,
Orange Grove Road,
Coonoor – 643 101,
The Nilgiris.
2. The Divisional Manager,
Naduvattam Tea Division,
Tamil Nadu Tea Plantation Corporation,
Naduvattam,
The Nilgiris.
3. The Division Manager,
Cherambadi Tea Division,
Tamil Nadu Tea Plantation Corporation,
Cherambadi,
The Nilgiris

... Respondents

Prayer in W.P.No.31319 of 2019: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the Recovery order passed by the second respondent in Proceedings in Proc.No.1196/2011/MV dated 28.02.2019 for a sum of Rs.15,940/- in respect of Lorry bearing Regn.No.TN-43-D-1465 for the period from September, 2015 to January 2016 and Quash the same as illegal and arbitrary and consequently forbearing the third respondent from deducting above said sum of Rs.15,940/- for the shortage of fuel in the petitioner's future monthly salary.

For Petitioner : Mr.S.Murugan

For Respondents : Mr.Haroon AL.Rasheed
for M/s.T.S.Gopalan & Co.

COMMON ORDER



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The order of recovery issued by the respondent in respect of excess usage of fuel in the respondent-Corporation vehicle by the petitioners, are under challenge in these writ petitions.

2. The petitioners have worked as Drivers and their services were utilised for the purpose of transporting Tea Plantation products to one place to other places. The respondent-Corporation fixed fuel norms for plying the vehicle based on the Government Orders issued periodically. In respect of any deficit, notices are issued to the Drivers and if any excess usage of fuel is noticed, then recovery orders are imposed.

3. During the relevant point of time, 6 kilometers per litre was the norm fixed by the Government and that was adopted by the respondent-Corporation. Since some of the Drivers, had not met out the norms, the show cause notices were issued to these Drivers, who had not submitted any explanation defending their case.

4. In view of the fact that no explanation was received by the Management, the respondent-Corporation issued the recovery order and the said



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orders are under challenge in these writ petitions.

5. The learned counsel for the petitioners in these writ petitions mainly contended that the respondents have no authority to fix the fuel norms. Further the Government norms fixed as 4 kilometre per litre was not followed by the respondent-Corporation and therefore, on that ground the recovery order is to be set aside.

6. The learned counsel for the respondent-Corporation reiterated that the show cause notices issued to the petitioners were not responded and therefore, based on the Government Orders, the impugned order of recovery was issued. Thus, the writ petitions are liable to be rejected.

7. Regarding fuel norms, the merits are to be considered by the respondent-Corporation with reference to the Government Orders applicable and in force. The issue regarding fixation of norms cannot be decided by the High Court in the writ proceedings under Article 226 of the Constitution of India.



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8. It involves various factors to be considered by the respondent-Corporation. The model of the vehicle utilised for transporting, the fuel consumption as per the Government Order prescription of such vehicles and the mileage, which is to be considered in hilly areas like Ooty are also to be taken into consideration by the Corporation, while fixing the fuel norms, which all are to be applied for the petitioners, who all are driving the vehicles in the Hilly Areas in Nilgiris District.

9. In this regard, the learned counsel for the respondent-Corporation brought to the notice of this Court that in respect of the very same vehicle, the Petitioners / Drivers are able to achieve the norms of fuel for 6 kilometers per litre as prescribed by the Government. However, these all are the factual disputes, which all are to be adjudicated by the Corporation by affording opportunities to these petitioners.

10. Perusal of the order impugned reveals that the Petitioners / Drivers had achieved 5.60 kilometers per litre in few cases and the norms fixed



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was 6 kilometers per litre. If the discrepancies are very meagre, then the respondent-Corporation has to consider the traffic congestions in the Hilly Areas and other mitigating circumstances. They cannot have a blind arithmetical norms in respect of usage of fuel in Hilly Areas. It requires a practical and pragmatic approach. More-so, depending on the condition of the vehicles. Therefore, this Court is of an opinion that the recovery cannot be merely based on the norms of fixation and the hard factors prevailing in Hilly Areas are also to be taken into consideration.

11. Since the petitioners had not availed the opportunities provided to them to respond to the show cause notice, this Court is of an opinion that the matter is to be remanded back for reconsideration for the purpose of adjudicating all these issues and take a practical decision in respect of usage of vehicle in various Hilly Areas in Nilgiris Districts.

12. In view of this matter, the order of recovery impugned issued in respect of W.P.No.30261 of 2019, by the second respondent in



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Proc.No.1196/2011/MV dated 28.02.2019, W.P.No.30264 of 2019, by the second respondent in Proc.No.1196/2011/MV dated 28.02.2019, W.P.No.30268 of 2019, by the second respondent in Say.Mu.Aanai.No.1196/2011 dated 23.09.2019, W.P.No.29879 of 2019, by the second respondent in Na.Ka.No.1807/2019/Pa dated 26.08.2019, W.P.No.29916 of 2019, by the second respondent in Na.Ka.No.1807/2019/Pa dated 26.08.2019, W.P.No.26139 of 2019, by the second respondent in Se.Mu.Aa.No.M.V/236/2019 dated 17.08.2019, W.P.No.31323 of 2019, by the second respondent in Se.Mu.Aa.No.1173/2018 M.V. dated 26.09.2019, W.P.No.31317 of 2019, by the second respondent in Sey.Mu.Aa.No.1173/2018 MV dated 26.09.2019, W.P.No.31315 of 2019, by the second respondent in Sey.Mu.Aa.No.TN-43-C-1353 dated 26.09.2019, W.P.No.31319 of 2019 by the second respondent in Proc.No.1196/2011/MV dated 28.02.2019, are quashed.

13. The matter is remanded back to the respondent-Corporation for the purpose of issuing a fresh show cause notice to the petitioners, within a period of four weeks from the date of receipt of a copy of this order. On receipt of the show cause notice, the petitioners are at liberty to submit all the relevant



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documents and their explanations to the respondents, within a period of two weeks from the date of receipt of the copy of the show cause notice to be issued by the respondents. Thereafter, the respondents are directed to consider the issues on merits and in accordance with law as expeditiously as possible.

14. With the above said directions, these writ petitions stand allowed.

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

02.12.2022

Index: Yes/No
Speaking order/Non-speaking order
rgm/mrn

To

1. The General Manager,

13/15

<https://www.mhc.tn.gov.in/judis>



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The Tamil Nadu Tea Plantation Corporation,
Orange Grove Road,
Coonoor – 643 101,
The Nilgiris.

2. The Divisional Manager,
Naduvattam Tea Division,
Tamil Nadu Tea Plantation Corporation,
Naduvattam,
The Nilgiris – 643 101.
3. The Divisional Manager,
Coonoor Tea Division,
Tamil Nadu Tea Plantation Corporation,
Coonoor,
The Nilgiris – 643 101.
4. The Divisional Manager,
Kotagiri Tea Division,
Tamil Nadu Tea Plantation Corporation,
Kotagiri,
The Nilgiris – 643 217.
5. The Divisional Manager,
Cherambady Tea Division,
Tamil Nadu Tea Plantation Corporation,
Cherambady,
The Nilgiris – 643 220.

S.M.SUBRAMANIAM, J.

rgm/mrn



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