



WP.No.26883 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.08.2022

CORAM

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

WP.No.26883 of 2018

A.Ravi

.. Petitioner

Versus

The Management of
Tamil Nadu State Transport Corporation
[Kovai] Ltd.,
Rep. by its Managing Director,
Coimbatore.

.. Respondent

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the respondent to refund the amount of Rs.48,471/- recovered from the wages and terminal benefits of the petitioner as towards unimplemented punishment of increment cut, together with 18% interest p.a.

For Petitioner : Mr.V.Ajoy Khose

For Respondent : Mr.A.Sundaravadanan
Standing Counsel



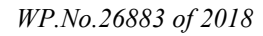
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ORDER

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The prayer sought for herein is for a writ of Mandamus to direct the respondent to refund the amount of Rs.48,471/- recovered from the wages and terminal benefits of the petitioner as towards unimplemented punishment of increment cut, together with 18% interest per annum.

2.The petitioner was working as Conductor at the respondent Transport Corporation from 1988 and after completing 29 years of service, he retired from service on 31.03.2017 on attaining the age of superannuation. At the time of settling the retirement benefits to the petitioner, a sum of Rs.48,471/- was withheld by the respondent Corporation stating that as per the order dated 24.10.2016 while the petitioner was in service there was punishment imposed against the petitioner to cut in increment and that was not implemented before the petitioner got superannuated. Therefore, in order to implement the same, the amount has to be recovered and for the said purpose, the said amount of Rs.48,471/- is withheld.





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Court also had an occasion to consider this issue at Madurai Bench in

W.P.(MD).No.7558 of 2020 dated 28.07.2020 in the matter of ***G.Senthil vs.***

The State Express Transport Corporation [Tamil Nadu] Ltd. and others.

As against the said judgment of the Writ Court, when further intra-court appeal was filed, the Division Bench of this Court at Madurai Bench on ***15.06.2021 in W.A.(MD).No.1270 of 2020*** has confirmed the order passed by the Writ Court, thereby the issue has been given a quietus long back. Therefore, the amount withheld by the respondent Transport Corporation shall be directed to be released to the petitioner, he contended.

5.However, Mr.A.Sundaravadanan, learned Standing Counsel appearing for the respondent would submit that in so far as the punishment imposed against the petitioner is concerned, i.e. cut in increment, had it been implemented the petitioner would not have earned more salary during the service period before superannuation. Therefore, what has been earned by the petitioner is an excess salary paid, for which the petitioner is not entitled to. Therefore, in order to recover the same, a part of the amount of the retirement benefits since have been withheld is justifiable, he contended.



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6.I have considered the rival submissions made by the learned counsels for the parties and have perused the materials placed before this Court.

7.As has been rightly pointed out by the learned counsel appearing for the petitioner, the issue raised in this writ petition is no more *res integra* as number of judgments have been passed, atleast two Division Bench judgments as referred above are there.

8.I had an occasion to consider this issue in the matter of ***G.Senthil vs. The State Express Transport Corporation [Tamil Nadu] Ltd. and others*** [referred above], where I have passed the following order:

“10.Therefore, the issue as has been rightly pointed out by the learned counsel for the petitioner has already been settled and in that view of the matter, the impugned order directing the petitioner to pay the said amount of Rs.75,900/- by way of 48 months recovery on monthly basis cannot be sustained, therefore, the said order is liable to be quashed.



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11. Accordingly, the impugned order, dated 25.04.2020 is quashed and the writ petition is therefore allowed. The respondents are hereby directed to refund the amount already recovered from the petitioner, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

9. When appeal was preferred against the said order, the Division Bench by order dated 15.06.2021 in W.A.(MD).No.1270 of 2020 [cited supra] having confirmed the said order has only modified the rate of interest for the belated payment from 18% to 6 %. The relevant portion of the Division Bench judgment reads thus:

“10. In the light of the above legal principle and having found that there is no provision in the Certified Standing Orders to pass orders of recovery at the verge of retirement or after retirement proposing to recover the unimplemented orders of punishment of postponement of increment, is wholly without jurisdiction. Hence, for the



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reasons set out by the learned Single Bench as well as the reasons which we have observed supra, the order passed in the writ petition does not call for interference. The learned Single Bench has allowed the writ petition as prayed for, which would mean that the respondent~workman is also entitled to claim interest at 18% per annum. In our considered view, 18% interest would be too exorbitant and we are of the view that a time frame can be fixed for the respondent~Management to settle the amount of Rs.75,900/- and accordingly directed to pay the said sum within a period of 12 weeks, failing which, the Management is directed to settle the amount together with the interest at the rate of 6% per annum from the date of order passed in the writ petition, namely, 28.07.2020, till the claim is settled.”

10. Therefore, following the said two Division Bench Judgments, I am inclined to dispose of this writ petition on the same lines:

“That there shall be a direction to the respondents to return



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back the withheld amount of Rs.48,471/- to the petitioner along with interest from the date of retirement till the date of payment at the rate of 6% per annum within a period of twelve weeks from the date of receipt of a copy of this order.

11. With these directions, the writ petition stands disposed of.

However, there shall be no order as to costs.

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Internet : Yes
Index : Yes/No
cse

To

The Management of
Tamil Nadu State Transport Corporation
[Kovai] Ltd.,
Rep. by its Managing Director,
Coimbatore.



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R.SURESH KUMAR, J.,

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