



W.P(MD)No.7872 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2022

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THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

W.P(MD)No.7872 of 2017

and

W.M.P(MD)No.6098 of 2017

T.Thomas Abraham

... Petitioner

Vs

The Managing Director,
The Tamil Nadu State Transport
Corporation (Tirunelveli) Limited,
Kattaboman Nagar,
Tirunelveli – 627 011.

... Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the respondent in 5868/A4/TNSTC/(TNV)/NGL/2016, dated 20.07.2016 and quash the same insofar as it relates to ordering recovery of Rs.1,40,373/- towards cash value of increment cut and consequently to direct the respondent to refund the amount of Rs.1,40,373/- which was recovered from the petitioner's leave salary within the time stipulated by this Court.

For Petitioner : Ms.D.Ramya
for Mr.C.Thangamani

For Respondent : Mr.K.Sathiya Singh



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ORDER

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This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the order passed by the respondent in 5868/A4/TNSTC/(TNV)/NGL/2016, dated 20.07.2016 and insofar as it relates to ordering recovery of Rs.1,40,373/- towards cash value of increment cut and consequently to direct the respondent to refund the amount of Rs.1,40,373/- which was recovered from the petitioner's leave salary within the time stipulated by this Court.

2. It is seen from the impugned order that a sum of Rs.1,40,373/- was ordered to be recovered from the leave salary payable to the petitioner towards cash value of increment cut. This proceeding was issued on 20.07.2016, after the petitioner retired on attaining the age of superannuation on 30.06.2016.

3. The question of recovery of non-implemented increment cuts after retirement is no longer *res integra*. The Division Bench of this Court in **W.A.(MD).Nos.886 and 887 of 2017, dated 12.07.2017 (The Managing Director, Tamil Nadu State Transport Corporation, Kumbakonam and others Vs. S.R.Viswanathan and others)** has held that such recovery cannot be made particularly, in the absence of any order of recovery having



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been passed while the petitioner was in service. There is no order of recovery passed against the petitioner, while he was in service.

4. In view of the categorical pronouncement of the Division Bench of this Court, the Writ Petition is allowed. The recovery is declared illegal. The respondent / Corporation is directed to refund the amount recovered along with interest to the petitioner within a period of six weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

18.08.2022

Internet :Yes
Index :Yes / No
ps

Note:-

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



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G.CHANDRASEKHARAN, J.

ps

To

The Managing Director,
The Tamil Nadu State Transport
Corporation (Tirunelveli) Limited,
Kattaboman Nagar,
Tirunelveli – 627 011.

Order made in
W.P(MD)No.7872 of 2017

18.08.2022