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W.P.(MD)Nos.18250 of 2016, 5532 of 2018,
1294 and 26887 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.18250 of 2016, 5532 of 2018,
1294 and 26887 of 2019

and

W.M.P.(MD)Nos.5435 of 2018,
1107 of 2018 and 23250 of 2019

W.P.(MD)No.18250 of 2016:

L.Muthuvel

... Petitioner

vs.

1.The Management of Tamil Nadu
State Transport Corporation
(Kumbakonam) Limited,
represented by its Managing Director,
Kumbakonam.



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2.The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Trichy Region, Trichy.

3.The Assistant Manager (Personnel),
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Trichy Region, Trichy.

4.The Administrator,
Tamil Nadu State Transport Corporation,
Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai, Chennai-2.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 3rd respondent, dated 19.12.2015, in so far as imposing recovery of Rs. 27,429/- under the head of “unimplemented punishment of increment cut”, quash the same as illegal, arbitrary and unconstitutional and consequently, to direct the respondents to pay Rs.27,429/- with interest at the rate of 18% per annum payable from 31.07.2015 to till the date on which the above



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amount is settled to the petitioner.

For Petitioner	: Mr.A.Rahul
For R1 to R3	: Mr.D.Sivaraman
For R4	: Mr.S.C.Herold Singh

W.P.(MD)No.5532 of 2018:

G.Natarajan (died)

1.Senthamarai Natarajan

2.Sathiya Jothi

... Petitioners

***(P1 and P2 are substituted, vide order,
dated 16.12.2022, in W.M.P.(MD)No.
4793 of 2021 in W.P.(MD)No.5532 of 2018)***

vs.

1.The Management of Tamil Nadu
State Transport Corporation
(Kumbakonam) Limited,
represented by its Managing Director,
Kumbakonam.

2.The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Kumbakonam Region, Kumbakonam.



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3.The Administrator,
Tamil Nadu State Transport Corporation,
Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai-600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration, to declare the action of the respondents in imposing recovery under the head of “Non-implemented Punishments of Increment cuts” from the petitioner's terminal benefits as illegal, null and void and without jurisdiction and consequently, to direct the respondents to pay the recovery amount of Rs.1,91,688/- and also monthly pension arrears payable to him from 01.07.2011 to 31.01.2014 together with interest at the rate of 18% per annum payable from 30.06.2011 to till the date on which the above amount is settled to the petitioner.

For Petitioners	: Mr.A.Rahul
For R1 and R2	: Mr.D.Sivaraman
For R3	: Mr.S.C.Herold Singh



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W.P.(MD)No.1294 of 2019:

M.Veeramani

... Petitioner

vs.

1.The Management of Tamil Nadu
State Transport Corporation
(Madurai) Limited,
represented by its Managing Director,
Madurai-625 016.

2.The General Manager,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Madurai Region,
Madurai – 625 016.

3.The Assistant Manager,
Establishment Department,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for
issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to



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the impugned order passed by the 3rd respondent in Ref.No.Pa.See.2/E1/14, dated 05.04.2018, to quash the same and consequently, to direct the respondents to refund a sum of Rs.50,400/- to the petitioner together with interest at the rate of 18% per annum payable from 31.03.2018 to till the date of payment to the petitioner.

For Petitioner : Mr.A.Rahul
For Respondents : Mr.D.Sivaraman

W.P.(MD)No.26887 of 2019:

G.Jayakumar

... Petitioner

vs.

1.The Management of Tamil Nadu
State Transport Corporation
(Kumbakonam) Limited,
represented by its Managing Director,
Kumbakonam.

2.The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Kumbakonam Region, Kumbakonam.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration, to declare the action of the respondents in recovering a sum of Rs.2,84,952/- towards recovery of “Non Implemented Punishments of Increments Cuts” from the petitioner's terminal benefits including gratuity as illegal, null and void and without jurisdiction and consequently, to direct the respondents to pay his recovered amount of Rs.2,84,952/- together with interest at the rate of 18% per annum payable from 31.07.2016 to till the date on which the above amount is settled to the petitioner.

For Petitioner : Mr.A.Rahul
For Respondents : Mr.P.Balasubramanian

COMMON ORDER

In all these writ petitions the issue raised is that the petitioners faced disciplinary proceeding and were imposed punishment. However, the punishment is unimplementable since the petitioners had retired prior to implementing the punishment. Since the issue raised in all the writ petitions are one and the same, with the consent of the parties all writ petitions were taken together and common



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order is passed.

2. The issue of implementing such punishment was dealt with by the Hon'ble Division Bench in W.A.(MD)No.1270 of 2020, vide order, dated 15.06.2021, it has been held as under:

“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 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.”



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In the respondents Transport Corporation, there is no provision in the Certified Standing Orders to pass orders of recovery at the verge of retirement or after retirement proposing to stoppage of increment for years beyond the period of retirement. Hence the unimplemented orders of punishment of postponement of increment, is wholly without jurisdiction. Even in the aforesaid judgment it has been categorically held that the respondents have acted beyond jurisdiction. Therefore, following the above judgment, this Court is of the considered opinion that any orders of recovery or postponement of increment beyond the period of retirement is unimplementable orders and is liable to be quashed.

3. The writ petition W.P.(MD)No.18250 of 2016 is filed for issuance of a writ of Certiorarified Mandamus, to quash the impugned order passed by the 3rd respondent, dated 19.12.2015, in so far as imposing recovery of Rs. 27,429/- since it is “unimplemented punishment of increment cut” and consequently, to



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direct the respondents to pay Rs.27,429/- with interest at the rate of 18% per annum payable from 31.07.2015 to till the date on which the above amount is settled to the petitioner. The petitioner was serving in 1st respondent corporation as Driver and has faced disciplinary proceedings, wherein he was imposed with a punishment. In the mean while the petitioner had retired from service and he had paid gratuity of Rs.5,09,418/- out of which Rs.83,199/- was deducted. The petitioner sought details of statement of account, wherein it is stated vide order dated 19.12.2015 that a sum of Rs.27,429/- was imposed as recovery towards non implemented increment cut. The punishment which was imposed will run to one year, but the petitioner has retired before the punishment period is over. The petitioner had attained superannuation on 30.06.2016. In such circumstances, the punishment cannot be implemented. Therefore, based on the aforesaid Hon'ble Division Bench judgment the petitioner is entitled to relief and the impugned recovery of Rs.27,429/- is quashed and the respondent is restrained from



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recovering the said amount. However, the plea of interest is declined. The writ petition is partly allowed as stated supra.

4. The petitioner in W.P.(MD)No.5532 of 2018 was serving in 1st respondent corporation as Driver from 11.06.1993 and retired from service on 30.06.2011. The petitioner had faced several disciplinary proceedings and suffered several punishment of increment cuts. Because of his retirement, all the punishment of withholding of increment could not be implemented and therefore the monetary value of punishment was quantified and recovery of Rs.1,91,688/- was ordered from the petitioner's terminal benefits for the “Non-Implemented Increment Cuts”. The respondents also directed the petitioner to remit Rs. 84,588/- which was paid as bonus for which the petitioner is not entitled and the same was remitted by the petitioner. Since the respondents cannot collect the Rs. 1,91,688/- for “Non-Implemented Punishments of Increment Cut” in the light of



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the judgement of Hon'ble Division Bench stated supra, the petitioner has filed the present writ petition to repay the said amount along with interest. This Court is of the considered opinion that the punishment which was imposed will run beyond the period of retirement and in such circumstances, the punishment cannot be implemented. Therefore, based on the aforesaid Hon'ble Division Bench judgment the petitioner is entitled to relief and the respondents are directed to repay the recovered amount of Rs.1,91,688/- and the respondent is restrained from recovering the said amount. However, the plea of interest is declined. The writ petition is partly allowed as stated supra.

5.The petitioner in W.P.(MD)No.1294 of 2019 was serving in 1st respondent corporation as Conductor. The petitioner was dismissed from service on 09.07.2001 on the charge of absenting from duty without prior permission. The petitioner filed I.D.No.101 of 2005 to reinstate the petitioner without back wages.



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The Labour Court directed to exclude the period from 10.07.2001 to 16.12.2003 and from 08.05.2004 to 05.06.2005, while granting continuity of service to the petitioner. Thereafter, the petitioner was reinstated by an order, dated 02.11.2015. The petitioner retired on 31.03.2018. The 3rd respondent issued a proceeding, dated 05.04.2018, to recover a sum of Rs.50,400/- towards non-implemented punishment of increment cuts. The respondents recovered Rs.50,400/- from the terminal benefits towards recovery of three times monetary value equivalent to punishments of increment cut. This Court is of the considered opinion that the punishment which was imposed will run beyond the period of retirement and in such circumstances, the punishment cannot be implemented. Therefore, based on the aforesaid Hon'ble Division Bench judgment the petitioner is entitled to relief and the respondents are directed to repay the recovered amount of Rs.50,400/- and the respondent is restrained from recovering the said amount. However, the plea of interest is declined. The writ petition is partly allowed as stated supra.



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6. The petitioner in W.P.(MD)No.26887 of 2019 was serving in 1st respondent Corporation as Conductor and retired on 31.07.2016. Since a criminal case was pending against the petitioner, the 2nd respondent passed proceedings, dated 27.07.2016, and allowed the petitioner to retire from service without prejudice to the pendency of criminal case in S.C.No.29 of 2012. Thereafter the petitioner was acquitted from criminal case on 18.06.2018. Thereafter, vide proceedings, dated 01.11.2018, the petitioner was allowed to retire from service with effect from 31.07.2016. Thereafter the statement of accounts was furnished to the petitioner and it is seen that the respondents had deducted Rs.2,84,952/- towards “Non-implemented punishment of increment cuts” from the petitioner's terminal benefits. The contention of the petitioner is that the said amount was deducted without issuing any show cause notice and straight away recovery was imposed. This Court is of the considered opinion that the punishment which was imposed will run beyond the period of retirement and in such circumstances, the



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punishment cannot be implemented. Therefore, based on the aforesaid Hon'ble Division Bench judgment the petitioner is entitled to relief and the respondents are directed to repay the recovered amount of Rs.2,84,952/- and the respondent is restrained from recovering the said amount. However, the plea of interest is declined. The writ petition is partly allowed as stated supra.

7. With the above observations, the writ petitions are partly allowed as stated supra. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes

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