



WEB COPY



W.P.No.1634 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.1634 of 2020

N.Prasad

... Petitioner

/vs/

Tamilnadu State Transport Corporation
(Villupuram-III) Ltd.,
Thiruvannamalai Region, rep by its
General Manager,
Bye Pass Road, Venkikkal,
Thiruvannamalai-606 604.

... Respondent

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents to return the amount of Rs.75,060/- with 12% interest from the date of recovery, recovered from gratuity paid to the petitioner.

For Petitioner ... Mr. P.Ganesha Murthi
For Respondents ... Mr. Aswin
Standing Counsel for Transport Corporation



W.P.No.1634 of 2020

WEB COPY

ORDER

This writ petition has been filed for the issuance of the writ of mandamus to direct the respondents to return the amount of Rs.75,060/- with 12% interest from the date of recovery, recovered from gratuity paid to the petitioner.

2. The learned counsel for the petitioner submitted that the petitioner joined the service in Tamil Nadu State Transport Corporation as a driver in the year 1985 and he was dismissed from the service on 21.02.2011 in view of some disciplinary proceedings initiated against him; the charge against the petitioner is that he remained absent without any authority; the first respondent has filed Approval Petition No.74/11 and sought approval for the dismissal; the petitioner challenged the order passed in approval petition by way of filing a Writ Petition in W.P.No.24345 of 2014 and an order has been passed directing the first respondent to reinstate the petitioner in service with continuity but without backwages; accordingly, the first respondent had reinstated the petitioner on 11.10.2017 and thereafter, he was not paid with correct wages; the juniors of the petitioner were paid higher wages but the petitioner was paid with the wages which he received at the time of dismissal in the year 2011; the petitioner had lost



W.P.No.1634 of 2020

nearly Rs.10,000/- in the year 2017 and when he retired from service he lost Rs.16,000/- from his salary; though the petitioner had repeatedly requested the respondent to revise his salary, there is no response from them; when the respondents settled the terminal benefits, they deducted a sum of Rs.75,060/- from his gratuity amount for non-implementation of punishment period; the contention of the petitioner is that after retirement, the respondent cannot recover the amount pertaining to non-implemented punishment period; hence the petitioner has filed this petition.

3. The learned Standing Counsel for the respondent corporation submitted that the petitioner was reinstated into service on 11.10.2017 and he retired from service on 31.03.2019 and at the time of retirement, his grade pay was Rs.27,800/-; since there was no back-wages allowed in W.P.No.24345 of 2014, those services cannot be counted; due to his previous misconducts and punishments, the petitioner was given with the low grade pay applicable to him; the petitioner has got 11 years of non-qualifying service in view of the earlier punishment; the Corporation is recovering amount from the retiral benefits for the punishment already imposed.



W.P.No.1634 of 2020

4. The learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme Court in ***State of Punjab & Others etc. Vs. Rafiq Masih (White Washer) etc., in CA No.11527 of 2014*** and claimed that the payment made to the retired employees should not be recovered.

5. Taking into consideration of the said fact and also in the light of the judgment of the Hon'ble Supreme Court in ***State of Punjab & Others etc. Vs. Rafiq Masih (White Washer) etc., in CA No.11527 of 2014***, I feel that the amount that was deducted from the gratuity of the petitioner should be returned to him along with interest @ 12% from the date of recovery till the date of filing the petition.

6. In view of the reasons stated above, this Writ Petition is disposed with a direction to the respondent to return the recovered sum of Rs.75,060/- along with interest @ 12% from the date of recovery till the date of filing the petition, to the petitioner, within a period of six weeks from the date of receipt of a copy of this order. No costs.

04.10.2023

bkn



W.P.No.1634 of 2020

WEB COPY

To:

The Tamilnadu State Transport Corporation
(Villupuram-III) Ltd.,
Thiruvannamalai Region, rep by its
General Manager,
Bye Pass Road, Venkikkal,
Thiruvannamalai-606 604



WEB COPY



W.P.No.1634 of 2020

R.N.MANJULA ,J.

bkn

W.P.No.1634 of 2020

04.10.2023