IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	20/11/2023
Delivered on	28/11/2023

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Writ Petition No.31514 of 2014
a n d
M.P.Nos.1 and 2 of 2014

S. Chandrasekaran ... Petitioner

Vs

1. The Managing Director
Tamil Nadu State Transport Corporation
Kumbakonam Division
Railway Station Road
Kumbakonam.

2. The General Manager
Tamil Nadu State Transport Corporation
Trichy Zone, No.12 Williams Road
Trichy 1.

3. The Secretary
Theeran Chinnamalai Transport
Employees Co-op House Building Society
Trichy. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of mandamus to direct the second respondent not to deduct any amount from the petitioner's salary based upon the request made by the third respondent and refund the salary deducted from May 2013 onwards.

For petitioner	...	Mr.S.Mohan
For respondents	...	Mr.Murali Vinoth for R.R.1 and 2
		No appearance for R.3.

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ORDER

This writ petition is seeking direction to the second respondent not to deduct any amount from the petitioner's salary based upon the request made by the third respondent and refund the salary deducted from May 2013 onwards.

2. The facts in brief which are necessary for the disposal of this writ petition are as follows:-

The petitioner was working in Thuvarankuruchi branch of the Tamil Nadu State Transport Corporation, Kumbakonam Division as Trichy

Region Security Sergeant. A house was allotted to him by third respondent Employees Co-op House Building Society. As the quality of the construction made by the third respondent was very poor, he filed a petition before the District Consumer Forum, Perambalur, in C.O.P.No.8 of 2001. The District Consumer Forum, on considering the report of Advocate Commissioner and a report of Civil Engineer has passed orders on 14/6/2002, concluding that there was deficiency of service and directed the third respondent to pay a sum of Rs.25,000/- towards costs for rectifying the defects and Rs.5,000/- towards compensation and Rs.2,000/- as costs.

3. Being aggrieved, by the order of District Consumer Forum the third respondent Society has preferred an appeal before the State Consumer Disputes Redressal Commission, Chennai in A.P.No.701 of 2002. By an order, dated 5/3/2007, the Appellate Commission, dismissed the appeal and confirmed the orders of the District Consumer Forum.

4. The second respondent has started deducting a sum of Rs.2,075/- p.m., from the salary of May as per the request of third respondent towards the additional claim of Rs.52,334/-. The petitioner has

submitted a representation to the first and second respondents not to deduct any part of his salary, on the request of the third respondent. Since there was no reply, he submitted a petition, dated 12/5/2014, under RTI Act, for which the Public Information Officer of the second respondent gave a reply, dated 24/6/2014 stating that third respondent has issued a demand for recovery of the remaining balance amount of Rs.52,334/- payable for construction and basing on such demand, the first and second respondents have started deducting a sum of Rs.2,075/- p.m. Being aggrieved, the petitioner has filed this writ petition praying for the relief as stated therein.

5. The General Manager of Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., Trichy Region, has filed a counter affidavit on behalf of the respondents 1 and 2, wherein it is stated that the third respondent has allotted a house to the petitioner and the petitioner has paid part of amount to the third respondent and balance of loan amount was recovered as monthly instalments from the salary of the petitioner and entire loan amount was discharged. .

6. After discharging of the loan amount, third respondent has issued another demand to the first and second respondents for recovery of Rs.52,334/- and basing on such demand, the respondents 1 and 2 have started deducting a sum of Rs.2,075/- p.m., from May 2013 onwards from the salary of the petitioner. In M.P.No.1 of 2014, on 2/12/2014, this Court has ordered interim injunction from deducting Rs.2,075/- from the salary of petitioner, and second respondent has stopped deducting from the petitioner's salary.

7. Heard Mr.S.Mohan, learned counsel for the petitioner and Mr.Murali Vinoth, learned counsel for the respondents 1 and 2. There is no representation on behalf of the third respondent.

8. The learned counsel appearing for the petitioner submitted that if at all the third respondent Society is having any further claim, the Society cannot unilaterally direct the first and second respondents to deduct the money from the salary of the petitioner and the Society is expected to follow the procedure under the Tamil Nadu Cooperative Societies Act and Rules.

9. Heard both sides and perused the materials available on record.

10. This Court has gone through the impugned order of the third respondent, wherein, there is no mention as to under what count and on which aspect there were additional costs incurred in respect of construction of the house of the petitioner. Further, the construction of the house was completed long ago. If at all there was any additional expenditure incurred by the third respondent Society for construction of the house of the petitioner, they should have demanded the petitioner for additional expenditure either at the time of handing over of the house or immediately thereafter.

11. Further, when a petition was filed by the petitioner before the Consumer Forum against the third respondent stating that services of the third respondent are not adequate to the money already paid, third respondent Society should have informed the Consumer Forum that the petitioner has to pay some additional expenditure incurred by the third respondent for construction of the house. The petitioner has also sent a notice to the third respondent demanding to send the details as to how the additional expenditure was incurred, but there was no reply. Basing

on the letter of the third respondent Society, officer of the respondents 1 and 2 started deducting Rs.23,890/- by way of monthly instalment. The authorization given by the petitioner to his employer, i.e., respondents 1 and 2 is to deduct the EMI only in respect of the loan amount borrowed, by him from third respondent for allotment of house. The petitioner has not given any additional authorization to his employer, respondents 1 and 2 to deduct additional expenditure. Therefore, deduction of additional amount by the respondents 1 and 2 is without any authorisation.

12. Accordingly, this writ petition is disposed of, directing the first and second respondents not to deduct any amount from the petitioner's salary as per the request of the third respondent in the impugned order. No costs. Consequently, the connected Miscellaneous Petitions are closed.

28/11/2023

mvs.

Index: Yes/No

NCC: Yes/No

Dr.D.NAGARJUN,J

mvs.

Pre-delivery order made in
W.P.No.31514 of 2014

28/11/2023