BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.8659 of 2023

M.Sankaralingam ... Petitioner

Vs.

The Management of Tamilnadu State
Transport Corporation (Tirunelveli) Limited,
Represented by its Managing Director,
Tirunelveli. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of ***Writ of Mandamus,*** directing the respondent to refund the amount of Rs.99,000/-recovered from the terminal benefits of the petitioner as towards the value of un-effected punishment of increment cut, together with 6% interest p.a.

For Petitioner : No appearance

For Respondent : Mr.D.Jebaraj
Standing counsel

ORDER

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2. The writ petition is filed directing the respondent to refund the amount of Rs.99,000/-recovered from the terminal benefits of the petitioner as towards unimplemented increment cut punishment, together with 6% interest p.a.

3. The issue of deducting the amount from the monetary benefits of the employee towards unimplementable 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.*"

4. The Hon'ble Division Bench has also referred another judgment rendered in the case of ***Management of Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., and others Vs. J.Arumugam and another in W.A.(MD).No.465 of 2013 etc., batch dated 30.06.2017,*** wherein the Hon'ble Division Bench had held the respondent is not empowered to recovery any amount.

5. Following the aforesaid judgments this Court has allowed writ petitions in W.P.(MD)No.18250 of 2016, W.P.(MD)No.5532 of 2018, W.P.(MD)No.1294 and W.P.(MD)No.26887 of 2019 vide order dated 16.12.2022. Also allowed W.P.(MD)No.7988 of 2017 vide order dated 14.02.2023.

6. Therefore this Court is of the considered opinion that unimplementable punishment cannot be a ground to deduct any amount from terminal benefits, since any punishment beyond the retirement cannot be implemented. Moreover, it cannot also be implemented, if the employee died. Therefore, the respondents ought not to have deducted the said amount since the said amount comes under the "unimplementable punishment" category.

7. Accordingly, the respondent is directed to refund the amount of Rs.99,000/- which was deducted from the terminal benefits of the petitioner. The said exercise shall be completed, within a period of 12 weeks from the date of receipt of a copy of the order.

8. With the above directions, this Writ Petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No **17.04.2023**
Internet : Yes
ksa

S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No.8659 of 2023**

17.04.2023