



W.P.(MD).No.14802 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.14802 of 2021

S.Ganesan

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Represented by its Secretary,
Transport Department,
Secretariat,
Chennai-600 009.
- 2.The Managing Director,
Tamil Nadu State Transport
Corporation (Tirunelveli) Ltd.,
Corporate Office, V.M.Chathiram,
KTC Nagar, Tirunelveli,
Tirunelveli Taluk & District-627 011.
- 3.The General Manager,
Tamil Nadu State Transport
Corporation (Tirunelveli) Ltd.,
Tirunelveli Taluk & District-627 003.
- 4.The Administrator,
Tamil Nadu State Transport Corporation
Employee's Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai-600 002.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring the action of 2nd and 3rd respondents which had been recovered a sum of Rs.2,06,600/- towards non-implementable punishment of increment cut imposed on the petitioner as illegal, arbitrary and violative of article 14 of the constitution of India and consequently direct the respondents to refund the petitioner recovery amount Rs.2,06,600/- to the petitioner within the stipulated time that may be fixed by this Court.

For Petitioner	: Mr.N.Sudhagar Nagaraj
For R1	: Mr.P.Thambidurai Government Advocate
For R2 & R3	: Mr.R.Rajamohan Standing Counsel
For R4	: Mr.S.C.Herold Singh Standing Counsel

ORDER

The present writ petition is for a Writ of Declaration, declaring the action of 2nd and 3rd respondents which had been recovered a sum of Rs.2,06,600/- towards non-implementable punishment of increment cut imposed on the petitioner as illegal, arbitrary and violative of article 14 of the constitution of India and consequently direct the respondents to refund the petitioner recovery amount Rs.2,06,600/- to the petitioner within the stipulated time that may be fixed by this Court.



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

3. The petitioner joined the respondent Corporation as Senior Conductor on 27.06.1989. Thereafter, he retired on 29.02.2020. The respondents 2 and 3 had initiated proceedings, dated 05.03.2020 towards non-implementable punishment of increment cut amount of Rs.2,06,600/- and the same has been adjusted in the petitioner's salary, gratuity amount and other retirement benefits. It is atrocious on the part of the respondent corporation in recovering such a hefty amount without prior notice and the same is against the principles of natural justice. Such an act of the respondent Corporation in recovering an amount of Rs.2,06,600/- from the petitioner towards non-implemented punishment of increment cut is illegal.

4. This matter is already covered by the judgments of the Hon'ble Division Bench of this Court in W.A(MD)Nos.886 and 887 of 2017 vide order, dated 12.07.2017 and W.A(MD)No.1270 of 2020, dated 15.06.2021. Hence, in view of the same, the respondents are bound to settle the recovered amount to the petitioner immediately. The non settlement of such amount would amount



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to the violation of right to livelihood of the petitioner guaranteed under Article 21 of the Constitution of India and hence, this writ petition came to be filed.

5. Heard the learned Counsel for the petitioner, the learned Government Advocate for the first respondent and the learned Standing Counsel for the respondents 2 & 3 and perused the materials available on record.

6. The learned Standing Counsel fairly conceded that the petitioner is entitled to recover the amount of Rs.2,06,600/-.

7. This Court is inclined to follow the common judgment passed by the Hon'ble Division Bench of this Court in W.A(MD)Nos.886 and 887 of 2017 wherein, this Court dealt with the similar case and the relevant portion of which is extracted as follows:

“4. The learned Counsel appearing for the Corporation could not dispute the factual position that in the standing orders applicable to employees / respective first respondents there is no provision to effect such recoveries. The learned Single Judge following the order, dated 24.02.2015, rendered by an earlier Division Bench in W.A(MD)Nos.52 to 54 of 2015, held that permitting the Corporation to deduct the “non implemented



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punishment of increment cuts” cannot be considered as just or equitable. The case on hand is clearly covered by the aforesaid earlier Division Bench decision and the learned Single Judge was right in the following same.”

8. In view of the same, this Court declares the action of the respondent Transport Corporation recovering an amount of Rs.2,06,600/- from the petitioner towards non - implementable punishment of increment cuts imposed on the petitioner is illegal, arbitrary and violative of Article 14 of the Constitution of India and consequently, directs the respondents to refund the recovered amount of Rs.2,06,600/- to the petitioner. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

9. With the above said observation, this writ petition stands disposed of.
No costs.

03.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes

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L.VICTORIA GOWRI, J.

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