



W.P.(MD).No.16637 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.16637 of 2023

N.Velvendan

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Kumbakonam,
Tanjore District.

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

... Respondents

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 respondents transport Corporation which had recovered a sum of Rs.1,84,736/- amounts and date of recovery is as follows:

1.Rs.1,40,000/- on 05.03.2021,

2.Rs.4800/- on 05.05.2021,

3.Rs.39,936/- on 23.11.2021 towards non - implementable punishment imposed on the petitioner as illegal, arbitrary and violative of article 14 of the



W.P.(MD).No.16637 of 2023

Constitution of India and consequently direct the respondents to refund the petitioner the recovery amount of Rs.1,84,736/- along with 6% per annum.

For Petitioner : Mr.N.Sudhagar Nagaraj

For R-1 : Mr.K.Jegadeesh Balan
Standing Counsel

For R-2 : Mr.S.C.Herold Singh

ORDER

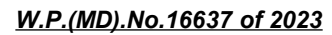
The present writ petition is for a Writ of Declaration, declaring the action of respondents transport Corporation, which had recovered a sum of Rs.1,84,736/- amounts and date of recovery is as follows:

1.Rs.1,40,000/- on 05.03.2021,

2.Rs.4800/- on 05.05.2021,

3.Rs.39,936/- on 23.11.2021 towards non - implementable punishment 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 the recovery amount of Rs.1,84,736/- along with 6% per annum.

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



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



W.P.(MD).No.16637 of 2023

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 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 Standing Counsel for the first respondent and the learned Counsel for the second respondent and carefully perused the materials available on record.

6. The learned Standing Counsel for the first respondent fairly conceded that the petitioner is entitled to recover the amount of Rs.1,84,736/- and however, he objected to the payment of 6% interest, which is claimed by the petitioner in his prayer.

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



W.P.(MD).No.16637 of 2023

WEB COPY

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 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 is inclined to issue a Writ of Declaration, declaring the action of the respondent Transport Corporation recovering an amount of Rs.1,84,736/- from the petitioner towards non - implementable punishment of increment cuts 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 to the recovered amount.

9. With the above said observation, this writ petition stands disposed of. There shall be no order as to costs.

11.07.2023



W.P.(MD).No.16637 of 2023

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

To

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W.P.(MD).No.16637 of 2023

L.VICTORIA GOWRI, J.

BTR

W.P.(MD).No.16637 of 2023

11.07.2023