



W.P.(MD).No.17263 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.17263 of 2023

S.Soundrarajan

... Petitioner

Vs.

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

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

... 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 the respondents in recovering a sum of Rs.90,400/- from the petitioner's salary and terminal benefits such as Gratuity is illegal, invalid and non-est in law and consequently direct the respondents to refund the recovered amount Rs.90,400/- to him with interest at 6% per annum payable from 30.04.2020 to till the date on which the above amount are settled to him.



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For Petitioner : Mr.A.Rahul

For Respondents : Mr.K.Ramaiah
Standing Counsel

ORDER

The present writ petition is for a Writ of Declaration, declaring the action of the respondents in recovering a sum of Rs.90,400/- from the petitioner's salary and terminal benefits such as Gratuity is illegal, invalid and non-est in law and consequently direct the respondents to refund the recovered amount of Rs.90,400/- to him with interest at 6% per annum payable from 30.04.2020 to till the date on which the above amount are settled to him.

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 service of the first respondent Corporation as Driver with effect from 03.01.1992. Thereafter, he was promoted as Senior Driver and he retired from service with effect from 30.04.2020. The respondents imposed a recovery from the petitioner to a tune of Rs.90,400/- towards monetary value equivalent to non-implemented punishments of



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stoppage of increment and the said amount was recovered from his salary from the months of September 2009 to April 2020 at the rate of Rs.7,000/- each and every month. The balance amount was recovered from his terminal benefits, namely, Gratuity. The said recovery was made in violation of the provisions of the Payment of Gratuity Act. No provision is available in the Gratuity Act facilitating recovery of monetary value equivalent to non-implemented punishments.

4. The Hon'ble Division Bench of this Court in W.A(MD)No.465 of 2017 has held that such recovery towards monetary value equivalent to punishments of non-implemented increment cuts cannot be made either from salary or from gratuity as there is no provision in the Standing Orders of the first respondent Corporation. The said judgment has been confirmed by the Hon'ble Supreme Court of India in SLP Diary No.1755 of 2018 on 09.02.2018.

5. In addition to that, this Court in W.P(MD)No.7558 of 2020, dated 28.07.2020 relying upon the ***State of Punjab & Others Vs. Rafiq Masih (White Washer) and Others*** reported in ***(2015) 4 SCC 334*** dealt with by the



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Hon'ble Apex Court of India. The relevant portion of W.P(MD)No.7558 of 2020 is extracted as follows:

“10. Therefore, the issue as has been rightly pointed out by the learned Counsel for the petitioner has already been settled and in that view of the matter, the impugned order directing the petitioner to pay the said amount of Rs.75,900/- by way of 48 months recovery on monthly basis cannot be sustained, therefore, the said order is liable to be quashed.”

6. In view of the same, the recovery of an amount of Rs.90,400/- from the petitioner at the verge of his retirement is impermissible in law and hence, this Court is inclined to declare the action of the respondents in recovering an amount of Rs.90,400/- from the petitioner's salary and terminal benefits such as Gratuity as illegal, invalid and non-est in law and further direct the respondents to refund the recovered amount to the petitioner with interest at the rate of 6% per annum payable from 30.04.2020.

7. This writ petition stands disposed of, accordingly. There shall be no order as to costs.

18.07.2023



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

To

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L.VICTORIA GOWRI, J.

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