



W.P.(MD).No.17324 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.17324 of 2023

A.Chinnathambi

... Petitioner

Vs.

1.The Tamil Nadu State Transport
Corporation (Tirunelveli) Limited,
Represented by its Managing Director,
Tirunelveli.

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

... 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.46,800/- from the petitioner's Earned Leave Salary is illegal, invalid and non-est in law and consequently direct the respondents to refund the recovered amount Rs.46,800/- to the petitioner with interest at 18% per annum payable from 30.04.2020 to till the date on which the above amount are settled to him.



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stoppage of increment and the said amount was recovered from his earned leave salary. Even without issuing any notice, this recovery has been effected. 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*** has dealt with a similar case. 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



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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.46,800/- from the petitioner at the verge of his retirement is impermissible in law and hence, this Court declares that the action of the respondents in recovering an amount of Rs.46,800/- from the petitioner's Earned Leave Salary is illegal, invalid and non-est in law and further directs 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.

19.07.2023

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

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To

- 1.The Managing Director,
Tamil Nadu State Transport
Corporation (Tirunelveli) Limited,
Tirunelveli.
- 2.The General Manager,
The Tamil Nadu State Transport
Corporation (Tirunelveli) Limited,
Tirunelveli Region,
Tirunelveli.



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L.VICTORIA GOWRI, J.

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