



W.P.(MD).No.7988 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.02.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.7988 of 2017

and

W.P.(MD).No.6174 of 2017

G.Ajithakumaran

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation (Tirunelveli),
No.19, Trivandrum Road,
Vannarpettai Post,
Tirunelveli.

2.The General Manager,
Tamil Nadu State Transport Corporation (Tirunelveli),
Nagercoil Region,
Ranithottam,
Ranithottam Post,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified mandamus, to call for the records on the files of the second respondent pertaining to its order in Kurippu No.2599/Sa.Pa.Pe.7/Tha A Po K (Thili)/Nager/2004 dated 12.04.2017 and to quash the same and consequently direct the respondents to disburse the entire retirement benefits to the petitioner.



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For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.K.Sathiyasingh,
Standing Counsel.

ORDER

This Writ Petition is filed challenging the impugned order dated 12.04.2017 with a consequential relief to disburse the retirement benefits to the petitioner.

2. The petitioner was working as a Driver in the respondent Corporation. The petitioner faced charge memo imputing four charges vide order dated 02.03.2015. The respondents after conducting enquiry, imposed the punishment of stoppage of increment for three years with cumulative effect vide order dated 21.01.2017. At that time, the petitioner was on the verge of his retirement and has attained superannuation on 30.04.2017. Hence the order of punishment has become unimplementable order. The respondents in order to implement the said punishment, without giving any opportunity, passed the impugned order dated 12.04.2017 directed the petitioner to pay Rs.1,25,280/-. The said order is challenged in this Writ Petition.



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3. Pending this Writ Petition, the petitioner is entitled to terminal benefits. However, the respondents citing the pendency of this case has not disbursed the terminal benefits.

4. The issue of unimplementable punishment is already dealt with in W.A.(MD).No.1270 of 2020 and the Hon'ble Division Bench vide order dated 15.06.2021 has held that even in the standing orders of the respondent Corporation, there is no provision for recovery of any amount, if the punishment could not be implemented. 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. Therefore, this Court is inclined to allow the Writ Petition. The respondents cannot implement the said punishment, since it has become unimplementable order. Therefore, the impugned order is set aside.



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6. The petitioner submits that the petitioner has not received terminal benefits. Therefore, this Court directs the respondents to pay the terminal benefits to the petitioner within a period of four (4) weeks from the date of receipt of a copy of this order without deducting the amount stated in the impugned order that is Rs.1,25,280/-.

7. In view of the above, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

14.02.2023

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



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S.SRIMATHY, J.

Nsr

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