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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2024

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.18663 of 2021
and W.M.P.No.19905 of 2021

The Transport Corporation Employers
Co-operative Thrift and Credit Sociey Ltd.,
rep. by its Secretary,
Teynampet,
Chennai – 600 018.

.. Petitioner

Vs.

- 1.The Secretary to Government and Chairman
State Transport Undertakings Transport Department,
Secretariat,
Chennai – 600 009.
- 2.The Managing Director,
Tamil Nadu Government Transport Corporation Ltd.,
Villupuram Division,
Villupuram,
Villupuram District.
- 3.The Managing Director,
Metro Transport Corporation Pallavan Illam,
Pallavan Salai,
Chennai – 600 002.
- 4.The Managing Director,
Chennai Central Co-operative Bank, Prakasam Salai, Chennai – 108.



5.The Secretary to Government,
Finance Department, Fort St. George, Chennai – 9.

6.The Managing Director,
Tamil Nadu State Apex Co-operative Bank,
Parrys Corner, Chennai.

.. Respondents

[R4 *suo motu* impleaded vide order dated 07.10.2021 made in W.P.No.18663 of 2021]

[R5 and R6 *suo motu* impleaded vide order dated 02.11.2021 made in W.P.No.18663 of 2021]

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd and 3rd respondents to make payments of the amount of Rs. 90,67,50,839/- recovered from the salaries of the employers towards the loan dues of the petitioner up to the month of July 2021 and also to make such future payments in accordance with the provisions contained in Section 48 of the Tamil Nadu co-operative Societies Act, 1983 mad with Rule 6(4) and (7) of Tamil Nadu Co-operative Societies Rules, 1988.

For Petitioner .. Mr.R.Murugabharathi

For Respondents .. Mr.T.Chandrasekaran
Special Government Pleader
for R1 and R5
Mr.M.Aswin for R2
Mr.A.Vinothraj for R3
No Appearance for R4 & R6



ORDER

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This writ petition has been filed by the Transport Corporation Employers Cooperative Thrift and Credit Society Ltd., at Chennai in the nature of mandamus seeking a direction against the 2nd respondent, Managing Director, Tamil Nadu Government Transport Corporation Ltd., Villupuram Division and the 3rd respondent, the Managing Director, Metro Transport Corporation, Pallavan Ilam, Pallavan Salai at Chennai to make payment of a sum of Rs.90,67,50,839/- recovered from the salary of the employees towards the loan dues of the petitioner till the month of July 2021 and also to make future payments in accordance with the provisions of Section 48 of the Tamil Nadu Co-operative Societies Act, 1983 r/w Rule 6(4) and (7) of the Tamil Nadu Cooperative Societies Rules, 1988.

2. In the affidavit filed in support of the writ petition, it had been stated that the writ petitioner is a Society registered under the Tamil Nadu Co-operative Societies Act, 1983 and formed for the needs of the employees of the Transport Corporation owned by the State Government. It had been stated that any amount deducted from the salary of an employee, should be remitted towards the loan account which had been availed by the employee. This provision had been given in



Section 48 of the said Act. It had been further stated that however the respondent Corporation had stopped payment of recoveries made from the salaries of the employee. The dues have accumulated and as on the date of filing of the writ petition in July 2021, the amount had escalated to Rs.90,67,50,839/-. It is under those circumstances, the writ petition has been filed.

3. Even before proceeding to examine whether the respondents have honoured their commitment to pay the amount, it will only be appropriate that Section 48 of the Tamil Nadu Cooperative Societies Act, 1983 is examined.

Section 48 is as follows:

48. Deduction from salary, wages or gratuity.— (1) *A member of a registered society may execute an agreement in favour of that society providing that:*

(a) his employer or the officer disbursing his salary or wages shall be competent, on a requisition in writing from the society to deduct every month from the salary or wages payable to him such amount as may be specified in the requisition towards the amount; and

(b) if he ceases to be an employee, his employer shall be competent on a requisition in writing from the society to deduct from the gratuity payable to such employee such amount as may be



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specified in the requisition towards the entire balance, due by him to the society in respect of any debt or other demand owing by the member to the society.

(2) (a) Where any such agreement as is referred to in subsection (1) has been executed by a member of a registered society, the employer or the officer disbursing the salary or wages of such member shall, on receipt of a requisition from the society, make the deduction from the salary or wages or the gratuity, as the case may be, payable to the member in accordance with the requisition, and pay, within a period of fourteen days from the date on which such deduction is made in respect of any society or class of societies, the amount so deducted to the society.

(b) Where the amount to be deducted in any month in accordance with the requisition made by a society, or where a requisition has been made by two or more societies in respect of the same person, the total amount to be deducted in accordance with all the requisitions exceeds one-half of his gross salary or wages for the month, the employer or the officer disbursing the salary or wages shall deduct from the salary or wages of such person only a sum representing one-half of his gross salary or wages for the month. The amount deducted shall, where deductions have been made against requisitions received from two or more societies, be paid by the employer or the officer disbursing the salary or wages to all the societies in proportion to the amounts to be deducted according to their requisitions:



Provided that where any amount is due to such class of registered societies as may be prescribed, the entire net salary or wages for the month or such portion thereof as may be prescribed in respect of any such class of societies may be deducted and paid as aforesaid.

(c) Where a requisition has been made by two or more societies for deduction from the gratuity in respect of the same person, the amount deducted from the gratuity shall be paid by the employer to all the societies in proportion to the amounts to be deducted according to their requisitions.

(3) The employer or the officer disbursing the salary or wages shall maintain such registers as may be prescribed.

(4) The provisions of this section shall apply to all such agreements of the nature referred to in sub-section (1) as are in force at the commencement of this Act and also to agreements of the said nature executed by the members of any society registered or deemed to be registered in any other State having reciprocal arrangements with the State of Tamil Nadu.

(5) The requisition in writing from any society registered or deemed to be registered in any other State having reciprocal arrangements with the State of Tamil Nadu in respect of a member of that society who, for the time being is employed in the State of Tamil Nadu received by his employer or the officer disbursing the salary or wages of such member, shall be acted upon as if such requisition had been made by a society registered in the State of



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Tamil Nadu and the provisions of sub-section (2) in so far as it applies to a requisition made under sub-section (1) shall apply to requisition made under this sub-section.

(6) If any employer or the officer disbursing the salary or wages of any such member as is referred to in sub-section (1) or sub-section (5), fails to comply with any of the provisions of this section, he shall be punishable with fine which may extend to five thousand rupees and in the case of a continuing offence, with further fine of five hundred rupees for each day on which the offence is continued after conviction therefor.

(7) The provisions of this section shall apply notwithstanding any law to the contrary for the time being in force.

(8) Without prejudice to any other mode of recovery which is being taken or may be taken under this Act or any other law for the time being in force, any sum deducted under sub-section (2) or sub-section (5) but not paid to the society within a period of fourteen days on which such deduction is made may be recovered together with the interest at such rate as may be prescribed from the date of such deduction and the costs involved in such recovery as if it were an arrear of land revenue and for the purposes of such recovery, the Registrar shall have the powers of a Collector under the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864).

(9) Nothing contained in this section shall apply to establishments under a railway administration operating any



railway as defined in clause (20) of Article 366 of the Constitution.

Explanation.— *For the purpose of this section and the Explanation under clause (a) of section 143 “State having reciprocal arrangements with the State of Tamil Nadu” means such State having reciprocal arrangements as the Government may, by notification, specify in this behalf.*

4.It relates to deduction from salary of wages or gratuity and if there is a deduction, it must be adjusted towards the loan obtained by the employees. This is a statutory obligation on the part of the employer, in this case the 2nd and 3rd respondent. If it is not so adjusted, it would only lead to a charge of misappropriation. It is only therefore in the interest of the 2nd and 3rd respondents that the amounts which are deducted are properly accounted for. It must be done on a periodic basis, month after month. But there cannot be an accumulation to an extent of about 90 crores, as on July 2021 as stated in the writ petition. By the time the hearing in the writ petition has commenced and we heard the amount had multiplied to an substantial extent. It will also be only appropriate that Rule 69(4) is also examined by this Court. Rule 69 provides for deduction from salary or wage and Rule 4 is as follows:

69. Deduction from the salary or wages--



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(4) Any amount recovered by an employer or officer disbursing salary or wages from an employee by deducting from his salary or wages in pursuance of a requisition received from any society or societies, as the case may be, shall be remitted by such employer or officer, as the case may be, to the society or societies concerned as soon as possible and in any case within a period of fourteen days from the date on which the deduction is made.

5.The said provision states that any amount which is recovered by an employer or by an officer disbursing salary or wages, from an employee, the said amount shall be remitted to the Society as soon as possible, within a period of fourteen days from the date on which such deduction is made. It is seen that the 2nd and 3rd respondents had been extremely lackadaisical in effecting payment to the petitioner Society. At any rate, owing to the directions issued by this Court during the successive hearing date particularly, in the previous hearing date, the 2nd and 3rd respondents have now produced the statement of accounts wherein, it had been contended that the 2nd respondent had remitted the amounts till October 2024 and the 3rd respondent had remitted the amounts till November 2024. This statement is however contested and disputed by the learned counsel for the petitioner herein.

6.I would in these circumstances, direct regular meeting to be held once



every quarter between the representatives of the petitioner Society and the 2nd and 3rd respondents to ensure that amounts deducted from the salaries are regularly paid to the Society. This direction is binding on the 2nd and 3rd respondents and if the 2nd and 3rd respondents do not convene such a meeting once every three months, the petitioner is at liberty to approach the Court for further orders. Noting the statement that the 2nd respondent had remitted the amounts till October 2024 and the 3rd respondent remitted till November 2024, I would dispose of this writ petition, but however, permit the petitioner to raise any grievance by way of a separate communication to the 2nd and 3rd respondents.

7.This writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

17.12.2024

Index:Yes/No
Internet:Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation:Yes/No
ssr

To

1.The Secretary to Government and Chairman



State Transport Undertakings Transport Department,
Secretariat, Chennai – 600 009.

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C.V.KARTHIKEYAN,J.

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