



W.P. No. 20201 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE VIVEK KUMAR SINGH

W.P.No.20201 of 2021

M. Padmini
W/o. V. Mohan,
6/83A, Masakkal,
Masakkal Post, Kothagiri
Nilgiri District

... Petitioner

Vs.

Tamil Nadu State Transport Corporation
(Coimbatore) Limited,
Represented by its Managing Director
37, Mettupalayam Road,
Coimbatore 641 043

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of appropriate writs, orders or directions and in particular issue a Writ of Declaration, declaring that the action of the respondent corporation in getting a written undertaking in a stamped paper attested by a notary and compelling and coercing her to accept for the recovery of a sum of Rs.98,287/- towards the monetary value of the unimplemented punishment imposed to her husband, while he was in service and deducting and making recovery of the said amount from the benefit payable to her under the Family Benefit Scheme as illegal and unconstitutional and consequently direct the respondents to refund the said amount with interest at the rate of 12% within a specified time.



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For Petitioner : Mr. R. Krishnaswamy
For Respondent : Mr. A. Sundaravadhanan

ORDER

This Writ Petition has been filed seeking to direct the respondent to refund a sum of Rs.98,287/-, which was deducted from the Family benefit Fund payable to the petitioner, towards monetary value of the unimplemented punishment against her deceased husband.

2. The case of the petitioner in a nutshell is as follows:

2.1. The petitioner's husband joined the services of the respondent Corporation as driver on 22.01.1961 and he died on 22.09.2015 while he was in service. On 05.12.2015, The respondent Corporation took a written undertaking from the petitioner to the effect that she has no objection to deduct a sum of Rs.98,287/- from the Family benefit Fund payable to her towards monetary value of the unimplemented punishment against her deceased husband. According to the petitioner she was made to give the above undertaking by the respondent by stating that she would be paid all the terminal benefits only if she gives such an undertaking and



accordingly she was paid only Rs.46,683/- after deducting the above said amount. The petitioner made representations dated 23.06.2017 and 09.03.2018 to the respondent requesting to refund a sum of Rs.98,287/- with interest and the same came to be rejected by the respondent, vide reply dated 21.03.2018, stating that the the same cannot be refunded as it was deducted only after getting no objection letter from the petitioner. Aggrieved over the said reply, the present writ petition is filed.

3. Heard the learned counsel appearing on either side.

4. The matter in issue has been squarely covered by the judgment of this Court dated 15.06.2021 in W.A.(MD) No.1270 of 2020 (***The State Express Transport Corporation and 3 others vs.G. Senthis and another***). The relevant portion of the said judgment is extracted hereunder.

"9. Furthermore, the question as to whether the Management would be entitled to implement orders of postponement of increment, which was not implemented during the period when the workman was in service, was also considered 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.,



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batch and it was held that the same cannot be done and it will be without jurisdiction. The operative portion of the judgment reads as follows:

“37. One more important aspect, which we wish to point out is that, the Management cannot plead ignorance of the fact that, on the date, when punishment was imposed on the workmen, the punishment was not capable of being implemented as workmen did not have the required remaining years of service. If that is so, the Management cannot take shelter under the explanation contained Clause 4 (1) (e) to suit its own convenience, and the workmen cannot be put in a disadvantageous position. In such circumstances, the Management cannot rely on the decision of the Hon-ble Supreme Court in *Kshetrabasi Mohanti (supra)* where, the Hon-ble Supreme Court considered the correctness of the order by substituting the punishment for a candidate, who was still in service. There, it was a case, where, it was not possible for the Corporation to implement the punishment, but, the case on hand, is a case, where, the Corporation was fully aware of remaining years of service in respect of each of the workmen, yet, chose to pass such orders of recovery. Thus, the Management, having failed to convert the punishment of stoppage of increment to that of order of recovery of monetary value, when the workmen were in service, it cannot



turn around and say that those orders could be implemented by invoking Clause 25 (iv) (b) of the Certified Standing Orders. “

10. In the light of the above legal principle and having found that there is no provision in the Certified Standing Orders to pass orders of recovery at the verge of retirement or after retirement proposing to recover the unimplemented orders of punishment of postponement of increment, is wholly without jurisdiction. Hence, for the reasons set out by the learned Single Bench as well as the reasons which we have observed supra, the order passed in the writ petition does not call for interference. The learned Single Bench has allowed the writ petition as prayed for, which would mean that the respondent~workman is also entitled to claim interest at 18% per annum. In our considered view, 18% interest would be too exorbitant and we are of the view that a time frame can be fixed for the respondent~Management to settle the amount of Rs.75,900/~ and accordingly directed to pay the said sum within a period of 12 weeks, failing which, the Management is directed to settle the amount together with the interest at the rate of 6% per annum from the date of order passed in the writ petition, namely, 28.07.2020, till the claim is settled."

5. In view of the observations made by this Court in W.A.(MD)



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No.1270 of 2020 (cited supra), the present writ petition is allowed. The respondent Management is directed to settle the amount of Rs.98,287/- within a period of eight (8) weeks, failing which the Management is directed to settle the amount together with interest at the rate of 6% per annum from the date of receipt of a copy of this order till the claim is settled. No costs.

13.12.2024

Index : Yes/No
Speaking Order : Yes/No
bga

To:

Tamil Nadu State Transport Corporation
(Coimbatore) Limited,
Represented by its Managing Director
37, Mettupalayam Road,
Coimbatore 641 043



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VIVEK KUMAR SINGH,J.

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