



W.P.(MD)No.1850 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2024

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THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)No.1850 of 2021

1.P.Manoharan (died)

2.M.Seerangayee

3.M.Gopi
(petitioners 2 and 3 are
substituted vide court order
dated 11.03.2024 in W.M.P.(MD)
No.330 of 2022 in
W.P.(MD).No.1850 of 2021

... Petitioners

Vs.

The Management of
Tamilnadu State Transport Corporation
(Kumbakonam Ltd)
Trichy Region
Rep by its General Manager
Trichy

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Mandamus directing the respondent to refund the
amount of Rs.3,16,542/- recovered from terminal benefits of the petitioner as
towards unimplemented increment cut punishment, together with 6% interest



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per annum.

For Petitioners : Mr.S.Arunachalam
For Respondent : Mr.S.C.Herold Singh
Standing counsel for TNSTC

ORDER

The petitioner worked as a conductor in the respondent Corporation for about 30 years and retired on attaining the age of superannuation on 31.01.2016. The respondent Corporation while paying the terminal benefits of the petitioner recovered an amount of Rs.3,16,542/- from the terminal benefits purportedly towards the unimplemented punishment of stoppage of increment imposed upon the petitioner from time to time while he was in service. Aggrieved by the said recovery petitioner approached this Court by filing the present Writ Petition.

2. During the pendency of the Writ Petition, the petitioner died and his wife and children were brought on record as petitioners 2 and 3 being the legal representatives.



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3. When the matter was taken up for consideration, learned counsel for the petitioner brought to the notice of this Court that the very issue involved in the present Writ Petition as to the power of the Corporation to recover the amounts towards the unimplemented punishments of stoppage of increments from the terminal benefits was considered by a learned Division Bench of this Court in W.A.(MD).Nos.465 of 2017 and batch dated 30.06.2017 and held that the respondent Corporation has no such power to recover such amounts from the terminal benefits of the retired employee in the absence of any provision in the conditions of service of the respondent Corporation. The relevant portion of the said decision reads as under:

“ 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



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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.”

4. It is also brought to the notice of this Court that another learned Division Bench of this Court following the case of Arumugam allowed W.A. (MD).No.1270 of 2020 by order dated 15.06.2021, wherein it was held as under:

“ 10. In the light of the above legal principle



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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.”



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5. In yet another decision a learned Single Judge of this Court relying on the decisions of the learned Division Benches referred to above and allowed W.P.(MD).No.23507 of 2023 by order dated 27.09.2023.

6. In the light of the settled legal position, this Court is not inclined to examine the matter on merits once again and is fully convinced that the issue involved in this Writ Petition is also covered by the orders passed by this Court referred supra and accordingly, the Writ Petition is allowed directing the respondents to release an amount of Rs.3,16,542/- recovered from terminal benefits of the first petitioner together with interest at 6% from the date of recovery till the date of payment as expeditiously as possible at any rate within a period of six weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

12.03.2024

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

The General Manager
Management of
Tamilnadu State Transport Corporation
(Kumbakonam Ltd)
Trichy Region
Trichy



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MUMMINENI SUDHEER KUMAR, J.

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