



W.P(MD)No.19023 of 2021

WEB CO **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 24.04.2024

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THE HON'BLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.19023 of 2021

T.Kandasamy

... Petitioner

Vs.

The Management of,
Tamil nadu State Transport Corporation (Kumbakonam) Ltd.,
Rep. By its Managing Director,
Kumbakonam.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent to refund the amount of Rs.1,92,570/- recovered from terminal benefits of the petitioner as towards unimplemented increment cut punishment, together with 6% interest p.a.

For Petitioner	: Mr.S.Arunachalam
For Respondent	: Mr.P.Balasubramanian
	Standing Counsel

ORDER

This Writ Petition has been filed for issuance of a Writ of



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Certiorarified Mandamus, to quash the charge memo No. 11624/Esst(DP)/A2/2018 dated 23.05.2019 issued by the respondent herein and the consequential enquiry proceeding Proc.No.11624/Estt. (DP)/A2/2018 dated 06.01.2021 and to direct the respondent to pass regular retirement order and release all the terminal benefits.

2.The learned counsel appearing for the petitioner submitted that the petitioner challenges the action of the respondent Corporation recovering a sum of Rs.1,92,570/- from his retirement benefits towards non implemented increment cuts. The said recovery came to be effected without putting the petitioner on notice and without disclosing the details as to the punishment inflicted against him on which the said recover has been effected. Admittedly, the petitioner retired from service on 29.02.2020 on attaining the age of superannuation.

3.Heard the learned counsel appearing for the petitioner, the learned Standing counsel appearing for the respondent and carefully perused the entire materials available on record.



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4.The question of recovery of non implemented increment cuts is no more *res integra*. This Court has dealt with a similar case and I have passed favorable orders in W.P.(MD)No.23507 of 2023 and the relevant portion of the same is extracted as follows:-

“4. The Hon-ble Division Bench of this Court in W.A(MD)Nos.886 and 887 of 2017 in the case of the Managing Director, Tamil Nadu State Transport Corporation (Kumbakonam) Limited and Others Vs. S.R.Vishwanathan and Others, dated 12.07.2017 has held that such recovery cannot be made, particularly, in the absence of any order of recovery having been passed while the petitioner was in service. The Hon-ble Division Bench had also followed another judgment passed in W.A(MD)Nos.52 to 54 of 2015 in the case of the Managing Director, Tamil Nadu State Transport Corporation, Tirunelveli Limited and Others Vs. Mahaboob John and Others.”

5.In view of the categorical pronouncement of the Hon'ble Division Bench of this Court, this Writ Petition stands allowed and the recovery of Rs.1,92,570/- is declared illegal. The respondent directed to refund the amount recovered along with 6% interest to the petitioner



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L.VICTORIA GOWRI, J.

Mrn

within a period of 12 weeks from the date of receipt of copy of this order.

There shall be no order as to costs.

24.04.2024

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

To

The Management of,
Tamil nadu State Transport Corporation (Kumbakonam) Ltd.,
Rep. By its Managing Director,
Kumbakonam.

Order made in
W.P(MD)No.19023 of 2021

24.04.2024