



W.P(MD)No.470 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.470 of 2017 and
WMP(MD) Nos.385, 386 of 2017

R.Raveendran

... Petitioner

Vs

1.The Managing Director,
The Tamil Nadu State Transport Corporation,
Bye-Pass Road, Madurai.

2.The General Manager,
Tamil Nadu State Transport Corporation,
Dindigul Bye-Pass Road, Dindigul.

3.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Thiruvalluvar Illam,
Chennai - 600 002.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned Order in Sathu/Sa/5910/2015 dated 31.08.2016 of the 2nd respondent and to quash the same and consequently directing the Respondents to



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disburse the petitioners terminal benefits of gratuity, provident fund, yearly increment, 3rd revised pay and heart ailment treatment medical fund dearness allowance and all other benefits entitled to the petitioner within the time stipulated by this Court.

For Petitioner : Mr.M.R.Sreenivasan
For Respondents : Mr.S.C.Herold Singh

ORDER

The petitioner, an employee of the Tamil Nadu State Transport Corporation was retired from service on 31.07.2011. The petitioner with a grievance that his terminal benefits were not settled by the respondent Corporation has submitted a representation to the respondents and filed this writ petition in the year 2017 on the directions of this Court in WP(MD) No.5910 of 2015, dated 17.04.2015 and after initiating contempt proceedings in Contempt Petition(MD) No.1054 of 2016. The respondent has passed the impugned order withholding certain amount from the gratuity, payable to petitioner that this petitioner was imposed with a punishment of stoppage of increment, while he was in service and that could not be implemented.



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2.Today(19.11.2024) when this writ petition is taken up for consideration, the learned standing counsel appearing for the respondents fairly submits that it is a settled position that for the un-implemented punishment, the respondent corporation is not entitled to recover the amount from the gratuity amount, which is due to this petitioner. The Honourable Supreme Court in the case in ***M.Karpaga Vinayagam Vs.State of Jharkhand*** reported in **2008 (3) JCR 665** has held that in the absence of any materials to show that the excess amount was received by the employee on misrepresentation, collusion, fraud or negligence, the said excess amount cannot be recovered out of the retiral dues, after retirement, without following the procedure contemplated as per rules, as applicable. The Honourable Division Bench of this Court in **WA(MD) No.1270 of 2020, dated 15.06.2021** has also reiterated that an order of recovery at the verge of retirement or after retirement proposing to recover the un-implemented orders of punishment of postponement of increment is wholly without jurisdiction.



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3.The learned counsel appearing for the petitioner submits that pending the writ petition, the petitioner died on 24.06.2017. The legal heir of the writ petitioner has filed an application in WMP(MD) No.22761 of 2024 to substitute her in the place of the writ petitioner in this writ petition and therefore a suitable direction may be issued to the respondents to settle the benefits to the legal heir of the deceased writ petitioner.

4.In view of the settled position of law as stated supra, this writ petition is allowed and the order impugned in this writ petition in Sathu/Sa/5910/2015 dated 31.08.2016 passed by the second respondent is hereby set aside. The application filed by the legal heir of the petitioner in WMP(MD) No.22761 of 2024 is allowed. The legal heir of the petitioner is at liberty to submit a fresh representation to the respondents with regard to the claim of the retirement benefits of the deceased writ petitioner, within a period of four weeks from the date of receipt of a copy of this order. On such



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receipt of representation, the respondents shall consider the same in accordance with law, within a period of six weeks from there on. No costs. Consequently, connected Miscellaneous petitions are closed.

19.11.2024

NCC:Yes/No
Index:Yes
vrn



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To

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B.PUGALENDHI, J.

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Order made in
W.P(MD)No.470 of 2017 and
WMP(MD) Nos.385, 386 of 2017 & 22761 of 2024

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