IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2025

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.654 of 2022

P.Sathiyamoorthy

...Petitioner

Vs.

Tamil Nadu State Transport
Corporation (Villupruam)
Rep., by its Managing Director,
No.3/137, Slamedu, Kandamandi (S.O)-605 401,
Villupuram.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Declaration declaring that the action of the respondent in deducting a sum of Rs.3,27,773/- from the petitioner's Gratuity amount and adjusting the amount payable to the petitioner towards bonus for the year 2017-18 and the settlement arrears payable to the petitioner as per the settlement dated 04.01.2018 as illegal, arbitrary, unreasonable and without jurisdiction and direct the respondent to refund me a sum of Rs.3,27,773/- towards balance gratuity amount, a sum of

Rs.15,245/- towards bonus for the year 2017-18 and a sum of Rs.10,952/- towards arrears of wages payable to the petitioner as per the 12(3) settlement dated 04.01.2018, with interest at the rate of 12% per annum, within a specific time as my be fixed by this Court award costs.

For Petitioner : M/s.H.Nandhini
for Mr.V.Ajay Khose

For Respondent : Mr.G.Saravana Kumar

ORDER

The petitioner aggrieved by the recovery of certain amounts from his Gratuity amount and for refund of a sum Rs.3,27,773/- towards Gratuity, a sum of Rs.15,245/- towards bonus for the year 2017-18 and a sum of Rs.10,952/- towards arrears of wages payable to the petitioner as per the 12(3) settlement dated 04.01.2018, with interest at the rate of 12% per annum has filed the above writ petition.

2.The petitioner joined the service of the respondent corporation as a driver on 23.01.1992 and was made permanent from 01.12.1992. After rendering about 26 years of service he retired on 30.04.2018, on reaching the age of superannuation. Eventhough the petitioner rendered 26 years of unblemished service and was entitled to Rs. 6,58,050/- as gratuity he was paid only an amount of RS. 3,30,277/- towards Gratuity on 31.08.2019. The petitioner tried to enquire with the respondents in this regard but no reply was given and therefore, the petitioner filed a petition on 20.09.2019, under the RTI Act. The petitioner again approached the respondent, and he was orally informed that as he had taken excess earned leave of 115 days, an amount of Rs.1,76,985/- was deducted and further a sum of Rs.1,50,788 was deducted towards additional benefits from the gratuity amount. According to the petitioner in the absence of any misrepresentation or fraud on his part, the respondents could not recover or adjust any amounts from his gratuity. The petitioner states that though he retired from service on 30.04.2018, an amount of Rs.3,30,733/- alone was paid as gratuity and that too after a year on

31.08.2019. Also the amounts towards arrears of wage revision and the other benefits were not paid to him . Hence left with no other remedy , the petitioner approached this court for the aforesaid relief.

3.The respondent filed a detailed counter conceding to the petitioner's claim of Rs. 10,9521/- towards arrears of wages and bonus arrears of Rs.15,245/- . The respondents stated that as the petitioner was paid excess amount towards earned leave and other additional benefits, the same were deducted from the the gratuity amount and hence, the writ petition deserved no merits and the same was liable to be dismissed.

4. The learned counsel for the petitioner contented that for the deduction of Rs. 1,05,788/- towards excess payment of additional benefits from the Gratuity amount of Rs.6,58,050/- there was absolutely no explanation in the counter. The counsel submitted that it is clear that the said deduction was made without any legal basis and hence ,the

respondent were bound to repay the same to the petitioner. The counsel submitted that as the respondent admitted in the counter that the petitioner was entitled to the settlement arrears of a sum of Rs. 10,952/- and bonus arrears of Rs. 15,245/- the petitioner was entitled to same .

5.The learned counsel for the respondents reiterated the submission made in the counter.

6.Heard both sides . Perused the records.

7.In so far as deduction towards excess leave is concerned I am of the view that in the absence of any misrepresentation or fraud by the petitioner, the same cannot he recovered on the mere ground of mistaken payment and that to after retirement of the petitioner who is a group IV employee. In the judgement of the Hon'ble supreme court in the case of *State of ***Punjab and others vs. Rafiq Masih*** reported in ***(2015) 4 SCC***

334 , the Hon'ble supreme court categorically held that where the payments were made mistakenly by the employer, in excess of the employees entitlement, the same could not be recovered, if the employees belonged to Class III and Class lV of the service and subsequently, retired from service. The said judgement squarely applies to the facts of the case. The justification for deduction of Rs.1,50,788 towards additional benefits has not at all been explained in the counter. There are absolutely no details about the additional benefits that were wrongly paid. In the absence of any details about the additional benefits. I am of the view that the deduction of Rs. 1,50,788/- is unjustified and untenable. As regards the petitioner's entitlement for Rs.10,952/- towards arrear of wages and Rs.15,245/- towards bonus arrears are concerned, the respondents have conceded to the same. As the respondents wrongly deducted the amounts from the petitioner's gratuity depriving him of his precious earnings in the evening of his life, I am inclined to allow interest.

8.In view of the above discussions, the writ petition is allowed and a direction is issued to the respondent Corporation to refund the amount of Rs. 3,27,773/- towards balance of Gratuity amount, Rs.15,245/- towards Bonus for the year 2017-18 and a sum of Rs.10,925/- towards settlement arrears with interest at 12% per annum within a period of 12 weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

14.02.2025

vsn

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No

To

Tamil Nadu State Transport
Corporation (Villupruam)
Rep., by its Managing Director,

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N.MALA,J.

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