



W.P.No.12821 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24/10/2025

C O R A M

THE HONOURABLE Mr.JUSTICE K. SURENDER

Writ Petition No.12821 of 2014

a n d

M.P.No.2 of 2014

1. K. Murali
2. V. Muthukaruppaiah
3. M. Subbu
4. K. Singaravelu
5. P. Muthu
6. G. Balasubramanian
7. L. Balasubramanian
8. R. Baskaran
9. S. Sankar
10. K.R.Vijayan
11. K. Velayutham
12. V. Ilangovan
13. K. Muniyandi
14. C. Arumugam
15. C. Sundaram
16. R. Yogarajan

...

Petitioners

Vs



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1. The Secretary to Government
Transport Department
Fort St. George
Chennai 9.

2. The Managing Director
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd
New Railway Station Road
Kumbakonam.

...

Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for G.O.Ms.No.40 Transport (D) Department dated 16/4/2014 on the file of the first respondent and Office Order No.TNSTC/KUM/PDK/PBS/255/2014 dated 22/4/2014 issued by the second respondent and quash the same and consequently, direct the respondents to pay House Rent Allowance continuously drawn by the petitioners all along from 1/6/2009 as per G.O.Ms.No.234 Finance (Pay Cell) Department dated 1/6/2009.

For petitioners ... L. Chandrakumar

For respondents ... Mr.V.Nanmaran
Additional Government Pleader
for R.1
Mr.M.Murali Vinodh
for R.2



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ORDER

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This writ petition has been filed to quash G.O.Ms.No.40 Transport (D) Department dated 16/4/2014 on the file of the first respondent and Office Order No.TNSTC/KUM/PDK/PBS/255/2014 dated 22/4/2014 issued by the second respondent and consequently, direct the respondents to pay House Rent Allowance continuously drawn by the petitioners all along from 1/6/2009 as per G.O.Ms.No.234 Finance (Pay Cell) Department dated 1/6/2009.

2. All the petitioners have retired in the cadres of Assistant Manager, Deputy Manager, Senior Deputy Manager and Manager from the respondent Corporation during 2016 itself. The grievance of the petitioners is that initially letters were issued by the Government for the recovery of House Rent Allowance, which were drawn by the petitioners who were in the managerial cadre and the same was regulated with effect from 1/6/2009, after the issuance of G.O.Ms.No.40 Transport Department dated 16/4/2014.



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3. Heard Mr.L.Chandrakumar, learned counsel for the petitioners, M.V.Nanmaran, Additional Government Pleader for the first respondent and Mr.M.Murali Vinodh, learned counsel for the second respondent.

4. It is not in dispute that all the petitioners have retired 10 years ago and the amount which was quantified as excess payment is about Rs.15,000/- to Rs.25,000/-, which is not disputed by the respondents. This Court, vide, order dated 29/4/2014, had granted interim orders restricting any kind of recovery from the petitioners at the time of admission.

5. The Hon'ble Supreme Court at paragraph No.12, in ***STATE OF PUNJAB AND OTHERS Vs. RAFIQ MASIH (WHITE WASHER) AND OTHERS (2015) 4 SUPREME COURT CASES 334*** has laid down the following guidelines for effecting recovery:

“12. It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the



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employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the few situations, wherein recoveries by the employers, would be impermissible in law:

(i). Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).

(ii). Recovery from the retired employees, or the employees who are due to retire within one year of the order of recovery.

(iii). Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv). Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly,



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even though he should have rightfully been required to work against an inferior post.

(v). In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.”

6. Following the above directions of the Hon'ble Supreme Court, this Court is of the considered opinion that nearly ten years, after retirement, the Government should not effect any kind of recovery. Accordingly, this **writ petition is allowed** and the order, dated 16/4/2014 passed by the first respondent in G.O.Ms.No.40 Transport (D) Dept., and consequential Office Order dated 22/4/2014 issued by the second respondent in No.TNSTC/KUM/PDK/PBS/255/2014 are quashed. No costs. Consequently, connected Miscellaneous Petition is closed.



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(K.SURENDER,J)

24th October, 2025

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Index: Yes/No

Neutral Citation: Yes/No

To

1. The Secretary to Government
Transport Department
Fort St. George
Chennai 9.

2. The Managing Director
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd
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K.SURENDER, J

mvs.



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