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W.A.No.3286 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2025

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.A.No.3286 of 2025

and

C.M.P.No.26963 of 2025

1. The Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Represented by its Managing Director,
3/137, Salamedu, Villupuram.
2. The General Manager,
Tamil Nadu State Transport Corporation,
(Villupuram) Ltd.,
Vellore Region, Rangapuram,
Vellore.
3. The General Manager,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Thiruvannamalai Region,
District Collectorate,
By Pass Road,
Vengikalpudur Village and Post,
Thiuvannamalai District – 606 604.
4. The Assistant Manager (Wages),
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Thiuvannamalai Region,
District Collectorate, Bye Pass Road,
Vengikalpudur Village and Post,
Thiruvannamalai – 606 604.

... Appellants



W.A.No.3286 of 2025

-Vs-

1. K.Nagarajan

2. The Administrator,
Tamil Nadu State Transport Employees,
Pension Fund Trust,
Thiruvalluvar Illam,
Chennai – 600 002.

... Respondents

PRAYER : Appeal filed under Clause XV of Letters Patent, against the order dated 28.10.2024 in W.P.No.16260 of 2019.

For Appellants : Mr.T.Chandrasekaran

For Respondents : Ms.G.K.Dharshini
for Mr.R.Krishnaswamy for R1

J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This intra Court appeal has been directed against the order dated 28.10.2024 made in W.P.No.16260 of 2019.

2. The first respondent is the writ petitioner who joined as Conductor of the first appellant Transport Corporation on 22.09.1998. Subsequently, he was made permanent and brought under time scale of pay with effect from 08.08.1990 and in that capacity, he has been working till he attained superannuation on 28.02.2019.



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3. On his retirement, the fourth appellant herein has issued an order dated 20.03.2019 informing the writ petitioner that, his retirement benefits would be paid only after the payment of Rs.4,94,640/- to the appellant Corporation by the writ petitioner.

4. The reasons cited for such proposal for recovery of the said sum of Rs.4,94,640/- was on account of the increment which has wrongly been calculated and paid to him.

5. When this order was questioned before the writ Court, the writ Court having taken note of the earlier order passed in this regard has allowed the said writ petition.

6. Heard MrT.Chandrasekaran, learned counsel for the appellants and Ms.G.K.Dharshini, learned counsel for the first respondent / writ petitioner.

7. The issue that was considered by the writ Court was as to whether on the basis of the certified standing orders which is governing the service conditions of the employees like the first respondent / writ petitioner, such a recovery could be made from the retired employee.



8. The answer was in the negative as at least two or more judgments in this regard had already been passed which in fact has been followed by the learned Judge through the impugned order.

9. Moreover, the issue with regard to the recovery after the retirement or superannuation that too from Class-C and Class-D employees is thoroughly impermissible as has been declared by the Hon'ble Supreme Court in the case of ***State of Punjab and others Vs. Rafiq Masih (White Washer) and others*** reported in ***(2015) 4 SCC 334***, where paragraph No.12 reads thus:

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

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

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

(iii) Recovery from 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



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

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(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.”

10. In view of the settled legal proposition in this regard, since admittedly the first respondent / writ petitioner retired from service on 28.02.2019 and only thereafter on 20.03.2019 since the recovery order has been passed against the first respondent / writ petitioner, it is passed without jurisdiction as there has been no employer-employee relationship existing after the writ petitioner superannuated on 28.02.2019 and he had already retired from service by then.

11. In view of the aforestated facts, apart from the reasons that have been discussed by the learned Judge, even as per the law having been declared by the Hon'ble Supreme Court in ***White Washer's case*** cited *supra*, we are of the firm view that, the impugned order before the writ Court cannot be sustained, therefore, it has rightly been quashed and therefore, the writ petition was allowed rightly by the learned Judge who passed the impugned order.



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12. In that view of the matter, this Court is not inclined to entertain the writ appeal, as a result of which, this Writ Appeal has to be dismissed, accordingly, it is dismissed. The needful as indicated by the writ Court through the impugned order shall be complied with by the appellant Department within a period of six weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) (K.G.T., J.)
28.11.2025

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

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To

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