



W.P.No.26927 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.07.2025

CORAM

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.P.No.26927 of 2025

S.Baskaran

... Petitioner

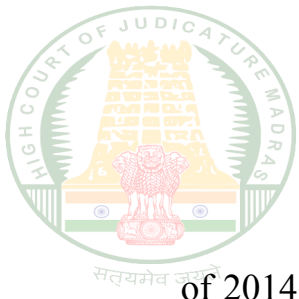
Vs.

1. The Managing Director,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
3/137, Salamedu,
Valudhareddy Post,
Villupuram – 605 602.

2. The General Manager,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Kancheepuram Regional Office,
Ponnerikkarai, Karapettai,
Chennai Bangaluru Highway,
Kancheepuram – 631 552.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to Lr.No.41809/Pay Bills 02/TNSTC(VPM)/KPM/24 dated 25.04.2025 issued by the second respondent and to quash the same as illegal in the light of the judgement of the Hon'ble Supreme Court in C.A.No.11527



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of 2014 dated 18.12.2014 (White Washer case) and direct the respondents to re-credit the 37.5 days of leave to the account of the petitioner.

For Petitioner : Mr.N.Ishak

For Respondents : Mrs.S.Pavithra,
Standing Counsel

ORDER

The instant writ petition has been filed challenging the order dated 25.04.2025 passed by the second respondent.

2. The learned counsel for the petitioner would submit that the petitioner retired on 31.12.2024 as a Special Grade Driver. It is the contention of the learned counsel for the petitioner that, after four months from his retirement, the second respondent passed the impugned order claiming a sum of Rs. 2,14,920/- on the premise that the petitioner was granted excess leave of 112 days beyond his entitlement, and after adjusting 37.5 days' leave available to the credit of the petitioner. The second respondent has directed the petitioner to pay the salary for the remaining leave period, which was quantified as Rs. 2,14,920/-



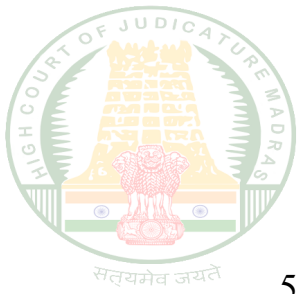
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2.1. The learned counsel for the petitioner would further submit that the availment of excess leave was not due to any misrepresentation by the petitioner. Therefore, if any recovery is ordered after retirement, it would seriously prejudice the petitioner's right to life. He would further contend that the ratio laid down in the judgment of the Hon'ble Supreme Court of India in ***State of Punjab and Others vs. Rafiq Masih (White Washer) and Others***, reported in ***(2015) 4 SCC 334***, would squarely apply to the case in hand. Hence, he prayed to interfere with the impugned order.

3. Per contra, the learned Standing Counsel appearing for the respondents would strongly object to the said contention and contend that the petitioner had availed excess leave since 1998. Therefore, when such excess availment of leave came to the notice of the Department, they are entitled to recover the said excess amount from the petitioner. Therefore, there cannot be any grievance on the part of the petitioner with regard to the impugned order.

4. I have given my anxious consideration to either side submissions.



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5. It is an admitted fact that the petitioner retired as a Special Grade Driver on 31.12.2024, and the impugned order came to be passed subsequent to the retirement of the petitioner. While perusing the impugned order, it is specified that the petitioner had availed 112 days of leave beyond his entitlement.

6. As rightly contended by the learned counsel for the petitioner, such availment of leave was not based on any misrepresentation. Therefore, having granted leave to the petitioner beyond his entitlement, if any deduction is made after his retirement, it would affect his right to life and would cause great hardship in leading his retirement life.

7. In such view of the submission, as rightly contended by the learned counsel for the petitioner and the facts of this case is squarely covers the Judgment of ***State of Punjab and Others vs. Rafiq Masih (White Washer) and Others*** reported in ***[(2015) 4 SCC 334]***. The relevant paragraph is paragraph 18, which reads as follows:-

“18. 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 following 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, 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.*

8. In view of the above ratio, this Court is of the view that if any recovery order is allowed to continue against the petitioner, as per the above



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ruling, it would become iniquitous and harsh against the petitioner. Hence, this Court finds justifiable reason to quash the impugned order.

9. In such view of the matter, the impugned order dated 25.04.2025 is hereby quashed. However, the second respondent, while ordering the recovery, had adjusted the petitioner's available leave of 37.5 days to his credit towards the alleged excess avilment of leave. Therefore, this Court deems it appropriate to direct the second respondent to settle the salary for a period of 37.5 days, within a period of eight weeks from the date of receipt of a copy of this order.

10. In the result, this Writ Petition is allowed. No costs.

23.07.2025

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Index : Yes/No
Speaking order /Non Speaking Order
Neutral Citation : Yes/No

To

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C.KUMARAPPAN, J.

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