BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 14/08/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

WP (MD). No.22281 of 2025
and WMP(MD)Nos.17398 and 17401 of 2025

M.Sekar ... Petitioner

Vs

1. The Tamil Nadu State Transport Corporation (Kumbakonam) Ltd,
Represented by its Managing Director,
Kumbakonam..

2. The General Manager,,
The Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Karaikudi Region, Karaikudi..

3. The Deputy Manager (Personnel and Legal),
the Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Karaikudi Region, Karaikudi..

4. The Assistant Manager (Personnel and Legal),
the Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Karaikudi Region, Karaikudi.

... 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 passed by 4th respondent in Ref No.TNSTC/Kumba/Karai/Nir/280/2023 dated 20.04.2023 and order of the 3rd respondent in Ref.No.TNSTC/Kumba/Karai/Nir/A1/623/2024 dated 14.10.2024 in so for as imposing recovery of Rs.2,56,800/- against the petitioner towards Non implemented Punishments of stoppage of increments and recovering Rs.1,46,743/- from the salary of the Petitioner from April 2023 to June 2024 and quash the same as illegal and consequently directing the respondents to refund the recovered amount of Rs.1,46,743/- to him and also directing the respondents to forthwith disburse provident fund, gratuity with interest at 18% per annum payable from 30.06.2024 to till the date on which the above amounts are settled to him.

For Petitioner : Mr.A.Rahul
For Respondents : Mr.S.C.Herold Singh

ORDER

By consent of both sides, the writ petition itself is taken up for final disposal at the stage of admission itself.

2. This writ petition has been filed challenging the impugned order of the 4th respondent in Ref No.TNSTC/Kumba/Karai/Nir/280/2023 dated 20.04.2023 and order of the 3rd respondent in Ref.No.TNSTC/Kumba/Karai/Nir/A1/623/2024 dated 14.10.2024 insofar as imposing recovery of Rs.2,56,800/- against the petitioner towards Non

implemented punishments of stoppage of increments and recovering Rs.1,46,743/- from the salary of the petitioner from April 2023 to June 2024 and consequently direct the respondents to refund the recovered amount of Rs.1,46,743/- to him and also directing the respondents to forthwith disburse provident fund, gratuity with interest at 18% per annum payable from 30.06.2024 to till the date on which the above amounts are settled to him.

3. The petitioner is an employee of the respondent Transport Corporation and for non implemented punishment suffered by the petitioner, the respondents passed the impugned recovery order subsequent to the retirement of the petitioner. The petitioner retired from service on 23.06.2024. However, the impugned order was passed on 14.10.2024, ie., after three months of retirement. Challenging the same, the petitioner is before this Court.

4. The learned counsel for the petitioner would submit that the issue in hand is no longer *res integra* in view of the decision of this Court in WP(MD) No.717/2020 etc. batch dated 14.12.2022, wherein,

this Court had held that for non implementation of the punishment, recovery could not be made. However, the punishment order was implemented on 14.10.2023, after his retirement and when there is no master – servant relationship between the petitioner and the respondents, the punishment imposed is illegal and non-est in the eye of law and hence, it is liable to be interfered with

5. The learned counsel for the respondents, on the other hand, would submit that the Apex Court in the case of ***Chairman cum Managing Director, Mahanadi Coalfields Limited vs. Sri Rabindranath Choubey*** reported in ***2020 (3) PLJR (SC) 438,*** categorically held that withholding of the gratuity after superannuation because of the disciplinary proceeding is permissible and depending on the relevant rules governing the service condition. In the present case, though there is no rule available for recovering the amount after the retirement, however there was a 12(3) settlement in between the Union and the Corporation. As per Clause 8 of 12(3) settlement, monetary value equivalent to non-implemented punishment can be recovered from the retirement benefits of the employee. Accordingly, he prays for dismissal.

6. I have considered the rival submissions and perused the materials available on record.

7. It is not in dispute that the petitioner is a retired employee of the respondent corporation. He retired on 23.06.2024 and the impugned order of recovery was passed on 14.10.2024. Though the petitioner was allowed to retire on 30.06.2024 without any condition, subsequently after a period of three months, the impugned order of recovery has been passed thereby a recovery of a sum of Rs.1,10,057.30/- is ordered to be recovered. It is to be noted that through the impugned order dated 20.04.2023, while the petitioner was in service, a sum of Rs.2,56,800/- was sought to be recovered for a period of 14 months starting from April 2023. However, it is stated that the said sum could not be recovered during the period of 14 months, as the petitioner was about to retire on 30.06.2024 and for which, the respondents have not reserved their right to recover the said amount, after the period of retirement of the petitioner. When the respondents have not reserved their right and allowed the petitioner to retire and when there was no master-servant relationship, the punishment of recovery imposed after the period of retirement is not sustainable.

8. Earlier when some of the employees of the respondent corporation have challenged the punishment and recovery in a batch of writ petitions in WP(MD) Nos.717 of 202 etc. batch, this Court has allowed all the writ petitions vide common order dated 14.12.2022 and set aside the impugned orders of recovery for non implemented punishment imposed therein. Since the present case is also squarely covered by the decision of this Court (supra), the petitioner has to be necessarily succeeded and the impugned order dated 14.10.2024 is liable to be set aside.

9. Accordingly, the writ petition is allowed and the impugned order dated 14.10.2024 is set aside. However, liberty is granted to the respondent Corporation if the Pension Rule permits, to initiate fresh disciplinary proceedings against the petitioner in terms of Pension Rule. No costs. Consequently, the connected Miscellaneous Petitions are closed.

14.08.2025

NCC : Yes/No
Index : Yes/No
RR

M.DHANDAPANI,J

RR

ORDER
IN
WP(MD) No.22281 of 2025

Date : 14/08/2025