



W.P.(MD).No.27359 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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DATED: 24.01.2025

CORAM

**THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD)No.27359 of 2023**

**and**

**W.M.P.(MD)Nos.23512 & 23513 of 2023**

M.Solomon Dharmaraj

... Petitioner

Vs

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

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

...Respondents

**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent in PROC No. 10170/AD10/TNSTC/TNV/2022 Dated 30.05.2022 and quash the same as illegal, invalid and non-est in law in so far as recovering a sum of Rs.1,01,400 from the petitioner's service gratuity amount towards "Punishment Un-effect period amount" and consequently direct the respondents to refund the recovered amount of Rs.1,01,400/- to him with interest at 18% per annum payable from 31.05.2022 to till the date on which the above amount is settled to him.



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W.P.(MD).No.27359 of 2023

For Petitioner : Mr.A.Rahul

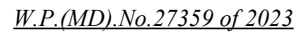
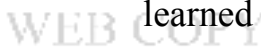
For Respondents 1, 2 : Mr.K.Ramaiah  
Standing Counsel

**ORDER**

The instant Writ Petition has been filed by a retired Special Grade Driver of the respondent transport corporation, seeking to quash the order passed by the second respondent herein on 30.05.2022, wherein, a sum of Rs.1,01,400/- has been recovered towards un-implemented increment cut.

2. According to the learned Counsel appearing for the writ petitioner, the petitioner was imposed with a punishment of postponement of increment for a period of four years with cumulative effect, on 12.08.2019. The petitioner had attained superannuation on 31.05.2022. Therefore, the order of imposition of punishment of increment cut could not be implemented. Therefore, while disbursing the terminal benefits, the respondent transport corporation has deducted a sum of Rs.1,01,400/- towards the un-implemented increment cut from the retirement benefits of the writ petitioner. This order is put to challenge in the present writ petition.

3. According to the learned Counsel appearing for the writ petitioner, unless there is a specific provision in the service regulations, they cannot deduct



4. Per contra, the learned standing counsel appearing for the respondent herein relied upon Paragraph No.9 of the counter, and contended that at the time of retirement, the petitioner has given an undertaking in Rs.20/- bond paper that he has no objection whatsoever to deduct the above said amount from terminal benefits. Only based upon the undertaking affidavit such a recovery was made and therefore, the petitioner is estopped from making a claim to refund the said amount.

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3/6



W.P.(MD).No.27359 of 2023

6. The learned Counsel appearing for the writ petitioner had rightly contended that the un-implemented increment cut can be recovered from the terminal benefits only if the service regulations or certified standing orders provided for the same. The said view has been confirmed by the Hon'ble Division Bench of this Court in W.A.(MD).1270 of 2020 dated 15.06.2021. However, it is the contention of the learned standing Counsel appearing for the respondents that the petitioner has given an undertaking for recovery of the said amount. The said undertaking letter is not placed before this Court and this Court could not arrive at any finding, whether, the undertaking is a general undertaking or whether it relates to the recovery towards un-implemented increment cut or not. In such circumstances, merely based upon the said affidavit this Court cannot arrive at a finding that the petitioner has given an undertaking.

7. In view of the judgement of Hon'ble Division Bench, it is clear that the respondent transport corporation cannot recover the un-implemented increment cut from the retirement benefits of the retiring employees. Therefore, the order impugned in this writ petition is set aside and the respondents are directed to disburse the sum of Rs.1,01,400/- within a period of twelve weeks from the date of receipt of a copy of this order.



W.P.(MD).No.27359 of 2023

WEB COPY

8. With the above said observations, this Writ Petition allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

**24.01.2025**

NCC : Yes/No  
Index : Yes/No  
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W.P.(MD).No.27359 of 2023

**R.VIJAYAKUMAR, J.**

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To

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

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

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