IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-01-2026

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP No. 50670 of 2025

K.Chandrasekaran

Petitioner(s)

Vs

1. Tamil Nadu State Transport
Corporation
Rep by its Managing Director,
Salem Limit, Salem-636 007

2.Tamil Nadu State Transport
Corporation
Rep by its Assistant Manager (Personal)
Salem Limit, Salem-636 007

Respondent(s)

PRAYER Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd Respondent in Ku. Na. E8 / TNSTC (Salem) / 20213 dated 16.11.2023, and action of the respondents in recovering Rs.1,67,200/- from the petitioner towards monetary value equivalent to non-implemented punishment of increment cuts, quash the same and consequently direct the respondents to forthwith pay the petitioner the recovered amount of Rs.1,67,200/- with 12 percentage interest payable form 30.11.2023 to till the date of which the above amount is settled to him.

For Petitioner(s): N.Desinghu

For Respondent: Mr.K.Raja, Standing Counsel

ORDER

Mr.K.Raja, learned Standing Counsel takes notice on behalf of the respondents.

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

3.This writ petition has been filed, challenging the impugned recovery order of the 2nd respondent dated 16.11.2023, and seeking a direction to the respondents to forthwith pay the petitioner, the recovered amount of Rs.1,67,200/- with 12% interest payable from 30.11.2023 to till date on which the above amount is settled to him.

4.The case of the petitioner is that the petitioner was appointed as a Driver in the respondent Transport Corporation on 01.07.1989 and was regularised on 01.08.1990. The petitioner attained the age of superannuation on 31.11.2023, and at the time of retirement, he was serving as Selection Grade Driver at Erumapalaiyam-1. Prior to his retirement, the 2nd respondent passed the impugned order dated 16.11.2023, demanding a sum of Rs.1,67,200/- for unimplemented punishments to be recovered from his terminal benefits, without any prior notice or specific charges. Challenging the said order, the present writ petition has been filed.

5.The learned counsel for the petitioner would submit that though the respondent claimed that a punishment was imposed on the petitioner, the same was not implemented by the respondent Corporation prior to his retirement. At the verge of retirement, the respondent Corporation sought to implement the punishment by recovering a sum of Rs.1,67,200/- which is not certain and arbitrary. It is the duty of the respondents to implement any punishment promptly once it is imposed. Failing to do so and leaving the petitioner to face consequence at the verge of retirement is impermissible one. A similar issue was considered by this Court in W.P No.2998 of 2017, and by its order dated 13.03.2024, the writ petition was allowed. Accordingly he prayed for a similar order in the present writ petition.

6.Per contra, the learned Standing Counsel appearing for the respondent would submit that though the petitioner retired on 30.11.2023, the impugned order was passed 16.11.2023 i.e., prior to his retirement. The petitioner, however, filed the present writ petition after a delay of two years, which renders the claim uncertain and not maintainable.

7.Heard the learned counsel appearing on either side and perused the materials available on record.

8.The fact of the case are not in dispute. It is an admitted fact that the petitioner was appointed as a Driver in the year 1989 and retired on 30.11.2023 as a Selection Grade Driver. Prior to his retirement, the present impugned order was passed on 16.11.2023 to implement the unimplemented punishment and directed recovery of Rs.1,67,200/-. A similar issue was taken up for consideration before this Court in W.P No.2998 of 2017, in which, by its order dated 13.03.2024, it was held as follows:

> *10. A learned Single Judge of this Court by following the judgment of the Division Bench of Madurai Bench of Madras High Court in the case of* ***State Transport Corporation rep. By Managing Director Vs. Senthil and another dated 15.06.2021*** *allowed the writ petition. The relevant paragraphs of the Division Bench Judgment are extract hereunder.*
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> *7. The above condition states that the increment postponement orders*
>
> *which could not be implemented prior to the superannuation of the employee can be implemented, but only in accordance with the Common Service Rules and the Standing Orders which are applicable to the organization. This question was considered in the*

case of J.Arumugam (supra), as first among the several issues and it was held that there is no provision in the Certified Standing Orders enabling the Management to pass orders of recovery as passed in the instant case. In fact, the Court held that the Common Service Rules are not applicable to the workmen and there is no Standing Order framed by the Management and only Certified Standing Orders are in vogue and the Certified Standing Orders do not provide for any such recovery. The operative portion of the judgment reads as follows:

"5. Before deciding the merits of the case, firstly, it has to be seen, as to, under which Rule, the workmen of the Management are governed by. It is admitted by the Management that the workmen are governed by Certified

Standing Orders, framed for the employees of the Management/Corporation by the Appellate Authority under the Industrial Employment (Standing Orders) Act 1946 (supra), but, contrary to the same, the impugned orders of recovery were passed by the Management, by following the provisions of the Common Service Rules, viz., Rule 4 (1) (e). Pitted with this position, the learned counsel for the Management submitted that the Management has no option, except, to opt for Rule 4 (1) (e) of the Common Service Rules, for, the workmen suffered punishment of withholding of increment, which could not be given effect to, as the workmen did not have the requisite remaining years of service. That apart, such a remedy is not found in the Certified Standing Orders. This submission is untenable, for the reason that, when the Management has admitted that the workmen are governed by the Rules framed under the Certified Standing Orders, in violation to *the same, it cannot follow Rule 4 (1) (e) of the Common Service Rules, by invoking Clause 25 (1) (iv) (b) of the Certified Standing Orders. Therefore, we have no hesitation to hold that the orders passed by the Management, recovering three times the monetary value equivalent to the amount of increment, are without jurisdiction, as there is no such provision in the Certified Standing Orders, enabling the Management to pass such orders. Therefore, on that ground, the impugned orders are required to be set aside."*

8. Therefore, the contention of the appellant~Management that Clause 8 of the 12(3) Settlement provides for passing such an order in an Organisation, is stated to be rejected. Clause 8 cannot be used as a tool or a source of power to recover money from the workman, especially, when the Settlement only states that it can be done so, if there is a provision under the Common Service Rules or the Standing Orders.

9. Furthermore, the question as to whether the Management would be entitled to implement orders of postponement of increment, which was not implemented during the period when the workman was in service, was also considered in the case of J.Arumugam (supra) and it was held that the same cannot be done and it will be without jurisdiction. The operative portion of the judgment reads as follows:

"37. One more important aspect, which we wish to point out is that, the Management cannot plead ignorance of the fact that, on the date, when punishment was imposed on the workmen, the punishment was not capable of being implemented as workmen did

not have the required remaining years of service. If that is so, the Management cannot take shelter under the explanation contained Clause 4 (1) (e) to suit its own convenience, and the workmen cannot be put in a disadvantageous position. In such circumstances, the Management cannot rely on the decision of the Hon-ble Supreme Court in Kshetrabasi Mohanti (supra) where, the Hon-ble Supreme Court considered the correctness of the order by substituting the punishment for a candidate, who was still in service. There, it was a case, where, it was not possible for the Corporation to implement the punishment, but, the case on hand, is a case, where, the Corporation was fully aware of remaining years of service in respect of each of the workmen, yet, chose to pass such orders of recovery. Thus, the Management, having failed to convert the punishment of stoppage of increment to that of order of recovery of monetary value, when the workmen were in service, it cannot turn around and say that those orders could be implemented by invoking Clause 25 (iv) (b) of the Certified Standing Orders."

10. In the light of the above legal principle and having found that there is no provision in the Certified Standing Orders to pass orders of recovery at the verge of retirement or after retirement proposing to recover the unimplemented orders of punishment of postponement of increment, is wholly without jurisdiction. Hence, for the reasons set out by the learned Single Bench as well as the reasons which we have observed supra, the order passed in the writ petition does not call for interference. The learned Single Bench has allowed the writ petition as prayed for, which would mean that the respondent~workman is also entitled to claim interest at 18%

per annum. In our considered view, 18% interest would be too exorbitant and we are of the view that a time frame can be fixed for the respondent~Management to settle the amount of Rs.75,900/~ and accordingly directed to pay the said sum within a period of 12 weeks, failing which, the Management is directed to settle the amount together with the interest at the rate of 6% per annum from the date of order passed in the writ petition, namely, 28.07.2020, till the claim is settled.

11. On perusal of the above judgment, it is clear that the respondents are not empowered under Standing Orders who passed orders for recovery at the verge of the retirement proposing to recover the unimplemented orders of punishment of postponement of increment, is wholly without jurisdiction and the said decision is squarely applicable in the present case also. Accordingly, by following the judgment stated supra, this Court is inclined to issue following orders:

"(i) The order bearing No.E7/2155/TNSTC (Salem)/2015 dated 02.04.2015 passed by the first respondent is hereby quashed; and

(ii) The respondents are directed to pay all terminal benefits for which the petitioner is legally entitled for, within a period of six weeks from the date of receipt of a copy of this order. "

9.Applying the ratio laid down by the Hon'ble Division Bench of Madurai Bench of Madras High Court, this writ petition stands allowed and the impugned order of the 2nd respondent dated 16.11.2023, is set aside. The respondents are directed to pay a sum of Rs.1,67,200/- to the petitioner, without any interest, within a period of four weeks from the date of receipt of a copy of this order. In default, the respondent Corporation shall be liable to pay interest at the rate of 6% per annum.

05-01-2026

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
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To

1.The Managing Director,
Tamil Nadu State Transport
Corporation
Salem Limit, Salem-636 007

2.The Assistant Manager (Personal)
Tamil Nadu State Transport
Corporation
Salem Limit, Salem- 636 007

M.DHANDAPANI J.

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