

WP(MD).28061 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 21.03.2025

PRONOUNCED ON : 07.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE SHAMIM AHMED

WP(MD)No.28061 of 2022
WMP(MD)Nos.22137 and 22138 of 2022

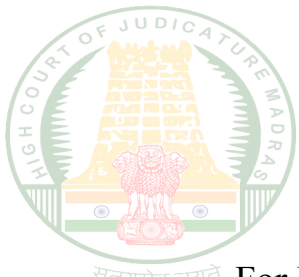
K.Rajendran, S/o.Karuppaiya, Bus Conductor
Tamil Nadu State Transport Corporation (Kumbakonam) Limited
Muthukulathur Branch, Ramanathapuram
having Residence at No.3/140, Vasanthapuram
Paramakudi, Ramanathapuram

Petitioner(s)

Vs

1. The Managing Director, Tamil Nadu State Transport Corporation
(Kumbakonam) Limited, Kumbakonam
2. The General Manager, Tamil Nadu State Transport Corporation
(Kumbakonam) Limited, Kumbakonam Respondent(s)

Prayer:- This Writ Petition has been filed, under the Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records, relating to the order passed by the 1st Respondent in TNSTC/TS/T3/16/19, dated 20.11.2020, confirming the order passed by the 2nd Respondent, dated 15.06.2020 in TNSTC/TST3/16/19 and to quash the same as illegal and consequently, directing the Respondents to restore the Petitioner's salary prior to the impugned order, passed by the 2nd Respondent, dated 15.06.2020, with all consequential benefits.



WP(MD).28061 of 2022

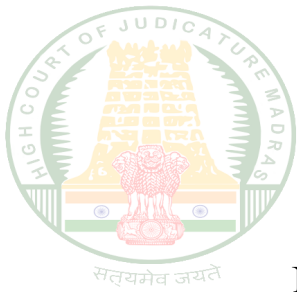
WEB COPY

For Petitioner(s) : Mr.T.Veerakumar

For Respondent(s) : Mr.K.Jagadeesh Balan, Standing Counsel-R1

ORDER

1. This Writ Petition has been filed, under the Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records, relating to the order passed by the 1st Respondent in TNSTC/TS/T3/16/19, dated 20.11.2020, confirming the order passed by the 2nd Respondent, dated 15.06.2020 in TNSTC/TST3/16/19 and to quash the same as illegal and consequently, directing the Respondents to restore the Petitioner's salary prior to the impugned order, passed by the 2nd Respondent, dated 15.06.2020, with all consequential benefits.
2. The facts of the case, in a nutshell, led to filing of this Writ Petition and necessary for disposal of same, are as follows:-
 - a) The Petitioner was appointed as a Bus Conductor in the Respondent Corporation on 01.01.1992 and his service was regularized in the year 1994. The Respondent Corporation issued a charge memo, dated 06.07.2019, against the Petitioner, stating that on 05.07.2019, when he was discharging his duty as a Bus Conductor, at the Route Muthukulathur-Veeracholan in the Bus, bearing Reg.No.TN-63-



WEB COPY



WP(MD).28061 of 2022

N-1503, he, after receiving Rs.20/- from a passenger, who travelled from Muthukulathur to Vallakulam, issued a ticket for Rs.10/- only to the said passenger and repaid Rs.2/- to her, as balance, thereby causing a monetary loss of Rs.8/- to the Respondent Corporation and directing the Petitioner to offer his explanation within a period of seven days. However, immediately, on the same day, by proceedings in TNSTC/TS/T3/16/19, dated 06.07.2019, the Petitioner was suspended, without giving sufficient opportunity or any notice to the Petitioner.

- b) After suspension, the Petitioner was, once again, sent for training and thereafter, on 05.08.2019, the Petitioner was reinstated in service. During the suspension period, he was not paid any salary or subsistence allowance. Thereafter, the Petitioner was transferred on 13.08.2019 from Muthukulathur Branch to Kamuthi Branch, by proceedings in Tha.Aa.Po.Ka./Pa.Pi./170/19 of the 2nd Respondent and subsequently, he was again retransferred to the Muthukulathur Branch.
- c) While so, an inquiry was conducted, without giving any sufficient opportunity to the Petitioner and based on the inquiry report dated 04.12.2019, the 2nd Respondent issued a notice, dated 11.3.2020,



WEB COPY

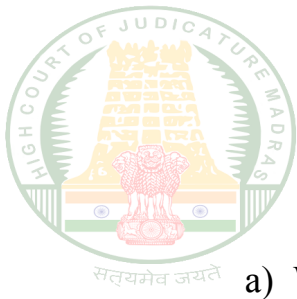


WP(MD).28061 of 2022

proposing to impose a punishment of pay reduction to minimum level with cumulative effect and calling upon the Petitioner to give a reply, within 7 days during the COVID-19 period. Thereafter, the impugned order, dated 15.06.2020 was passed, by the 2nd Respondent, imposing the punishment of pay reduction to minimum with cumulative effect and ordering the suspension period from 07.07.2019 to 05.08.2019 to be treated as eligible leave to his credit.

d) Both the above said notice and the impugned order, dated 15.06.2020 were served belatedly on 12.09.2020, obtaining his signature as if he received on 22.03.2020 and 24.06.2020. The Petitioner was not served with the enquiry report and other materials of the proceedings. On 14.09.2020, the Petitioner made an appeal before the 1st Respondent against the order dated, 15.6.2020 of the 2nd Respondent. The appeal was dismissed by the 1st Respondent, by his order, dated 20.11.2020, TNSTC/TS/T3/16/19, confirming the order of the 2nd Respondent, without giving any reasonable opportunity. In such circumstances, this Writ Petition has been filed, seeking the relief, as stated above.

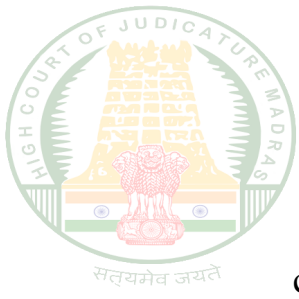
3. In the counter affidavit filed by the 2nd Respondent, it is stated as under:-



WP(MD).28061 of 2022

WEB COPY

- a) While the Petitioner was discharging his duty as a Bus Conductor, in the Bus No.TN-63-N-1503 on 05.07.2019 on the Route, Mudukulathur-Veeracholan, on checking, it was found by the Ticket Checking Inspectors that a women passenger travelling from Mudukulathur-Vallakulam had paid Rs.18/- as ticket fair, but the ticket was issued for Rs.10/- only, instead of Rs.18/ and thus, the Petitioner misappropriated a sum of Rs.8/-, causing monetary loss to the Respondent Corporation. It is a serious misconduct as per the relevant Standing Orders of the Respondent Corporation.
- b) A charge memo for the said misconduct was issued on 06.07.2019 to the Petitioner and he was suspended on the same day. Misappropriation of the said amount was not satisfactory explained by the Petitioner. Hence, a domestic enquiry was initiated against him. After sending enquiry notices on 06.09.2019, 03.10.2019 and 18.11.2019, enquiries were conducted on 18.09.2019, 14.10.2019 and 27.11.2019. The Petitioner appeared on all the enquiry dates. Finally, a final enquiry report, dated 04.12.2019 was submitted to the Respondent Management. Based on the enquiry report, a show cause notice was issued to the Petitioner on 11.03.2020, proposing to impose a punishment of pay reduction to minimum level with



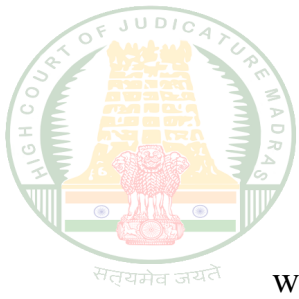
WEB COPY



WP(MD).28061 of 2022

cumulative effect and directing him to offer his explanation within seven days. Since the Petitioner did not submit any objection or explanation to the said show cause notice, the proposed punishment was confirmed by the 2nd Respondent, by his order dated, on 15.06.2020. The appeal filed as against the same by the Petitioner was also dismissed on 20.11.2020 by the 1st Respondent. There is nothing illegal or arbitrary in concluding the enquiry and in passing the Final Orders. If the discipline and control upon the workman is not maintained, the interest of the Respondent Corporation and its Administration will be seriously affected. In such circumstances, this Writ Petition is liable to be dismissed.

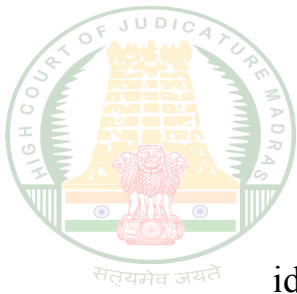
4. This Court heard Mr.T.Veerakumar, the learned counsel for the Petitioner and Mr.K.Jagadeesh Balan, the learned standing counsel for the 1st Respondent.
5. The learned counsel for the Petitioner has submitted that the Petitioner was not provided with sufficient opportunity before passing the impugned orders and that even the enquiry report was also not furnished to the Petitioner prior to imposing the punishment and hence, the disciplinary proceedings, which culminated in passing the impugned orders, imposing punishment of pay reduction to minimum



WEB COPY

with cumulative effect, is vitiated on the ground of violation of principles of natural justice.

6. The learned counsel for the Petitioner further submitted that it is not open to the Respondent Corporation to impose multiple punishments on the Petitioner for the same act of misconduct, inasmuch as, (i) after suspension, the Petitioner was sent for training once again, (ii) he was transferred to Kamuthi Branch from Muthukulathur Branch, (iii) and the impugned punishment of reduction of pay to minimum cumulative effect and (iv) the suspension period was treated as leave period to the credit of the Petitioner and hence, the impugned orders are illegal and contrary to authority of law and facts. The learned counsel for the Petitioner further submitted that even assuming that the Petitioner was found guilty of such misconduct, as alleged by the Respondent Corporation, the punishment of reduction in pay to minimum with cumulative effect is excessive and contrary to authority of law, since it is not contemplated in the relevant Standing Orders of the Respondent Corporation.
7. In support of his contentions, the learned counsel for the Petitioner has relied on the relevant Standing Orders of the Respondent Corporation and also the judgement and orders, passed in similar and



WEB COPY

identical matters by the Coordinate Bench of this Court. The reference of the same is given as under:-

- i. Order of the Madras High Court, dated 23.03.2018, passed in WP.No.6174 of 2009 (M.Sankar Vs. Tamil Nadu State Transport Corporation Limited, Villupuram, Tamil Nadu)***
- ii. Order of the Madurai Bench of the Madras High Court, dated 16.03.2020, passed in WP(MD)No.3039 of 2020 (2008 (1) MLJ 224 (M.Selvadurai Vs. The Managing Director, Tamil Nadu State Transport Corporation Limited, Kumbakonam, Tamil Nadu)***

8. Per contra, the learned standing counsel for the Respondents has submitted that only after giving sufficient opportunity to the Petitioner, which was availed by the Petitioner, the impugned orders, imposing the punishment of reduction in pay to minimum with cumulative effect, for the misconduct of causing monetary loss to the Respondent Corporation, were passed and that there is nothing illegal or arbitrary in concluding the enquiry and passing the impugned orders. The learned standing counsel further submitted that for the misconduct of misappropriation of ticket money, instead of dismissing the Petitioner from service, taking a lenient view in the matter, the Petitioner was imposed with the lesser punishment of reduction in pay and hence, interference of this Court is not necessary.

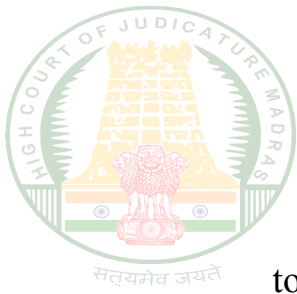


WEB COPY

9. I have given my careful and anxious consideration to the contentions put forward by the learned counsel on either side and also perused the entire materials available on record.

10. The allegation against the Petitioner is that while he, as a Bus Conductor, was on duty in the Bus No.TN63-N-1503 on 05.07.2019, on the Route, Mudukulathur-Veeracholan, on inspection, it was found by the Ticket Checking Inspectors that when a passenger paid Rs.18/- as ticket fair, the Petitioner issued a ticket for Rs.10/- only and thereby, caused monetary loss to the tune of Rs.8/- to the Respondent Corporation, which would amount to misconduct of misappropriation of bus ticket money ,which had to be accounted to the Respondent Corporation, as per the relevant Standing Orders of the Respondent Corporation.

11. According to the Petitioner, after issuing a charge memo on 06.07.2019, he was suspended on the same day, without giving sufficient opportunity or notice. After suspension, the Petitioner was, once again, sent for training and thereafter, on 05.08.2019, the Petitioner was reinstated in service. During the suspension period, he was not paid any salary or substantial allowance. Thereafter, the Petitioner was transferred on 13.08.2019 from Muthukulathur Branch



WEB COPY

to Kamuthi Branch and subsequently, he was again retransferred to the Muthukulathur Branch. The enquiries were conducted without giving any opportunity and also the enquiry report was not furnished to him. Based on the inquiry report, dated 04.12.2019, the 2nd Respondent issued a notice on 11.3.2020, proposing to impose a punishment of pay reduction to minimum level with cumulative effect and calling upon the Petitioner to give a reply within 7 days. Thereafter, without furnishing the enquiry report, to offer his explanation, the impugned order dated 15.06.2020 was passed, imposing the punishment of reduction in pay to minimum with cumulative effect and ordering the punishment of the suspension period from 07.07.2019 to 05.08.2019 to be treated as eligible leave to his credit. The appeal preferred by the Petitioner was dismissed by the 1st Respondent, by his order, dated 20.11.2020, without giving any reasonable opportunity. It is the ultimate case of the Petitioner that both the impugned orders were passed, without affording sufficient opportunity to the Petitioner.

12. It is also the contention of the learned counsel for the Petitioner that it is not open to the Respondent Corporation to impose multiple punishments for the same act and that when the impugned punishment



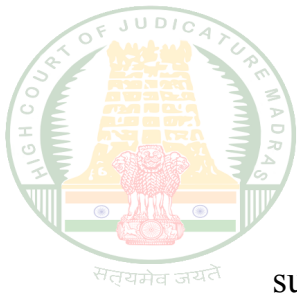
WP(MD).28061 of 2022

WEB COPY

is not contemplated under the relevant Standing Orders of the Respondent Corporation, it cannot be sustained.

13. On the other hand, it is the case of the Respondents that for the misconduct of misappropriation of the ticket amount of Rs.8/-, only after sending enquiry notices on 06.09.2019, 03.10.2019 and 18.11.2019, the enquiries were conducted on 18.09.2019, 14.10.2019 and 27.11.2019. The Petitioner appeared on all the enquiry dates. Based on the enquiry report, dated 04.12.2019, a show cause notice was issued to the Petitioner on 11.03.2020, about the proposed punishment for his misconduct of misappropriation of the ticket money. Since the Petitioner did not submit any objection or explanation against the misconduct, the proposed punishment was confirmed by the 2nd Respondent, by his order dated, on 15.06.2020. The appeal filed as against the same by the Petitioner was also dismissed on 20.11.2020. Hence, the impugned orders are in order.

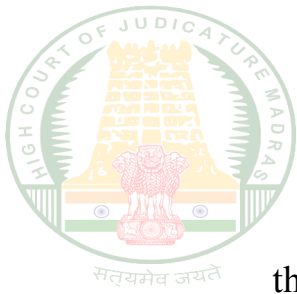
14. Be that as it may. In so far as the contention of the Petitioner that it is not open to the Respondent Corporation to impose multiple punishments for the same act of misconduct is concerned, the regularisation of suspension period of an employee depends upon various factors. Adjustment of leave to his credit during the period of



WEB COPY

suspension is one of the methods of regularization of suspension period. Therefore, this cannot be considered as one of punishment. Similarly, the transfer from one Branch to another Branch also cannot be considered as one of punishments, since it is an incident of service. Like wise, sending the Petitioner for training once again is also not a punishment.

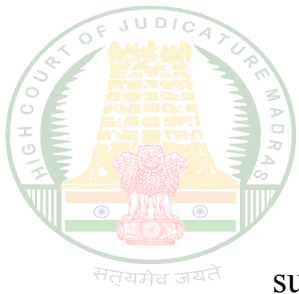
15. It is seen from the affidavit filed in support of this Writ Petition that the only contentions of the Petitioner are that the impugned orders were passed without giving sufficient opportunity to him and that since the impugned punishment is not contemplated under the relevant Standing Orders of the Respondent Corporation, the impugned punishment is excessive and contrary to authority of law.
16. On perusal of the records, it is seen that though it is stated by the Petitioner that he was not given any opportunity before passing the impugned order of punishment, dated 15.06.2020, the impugned order dated 15.06.2020 shows that the explanation of the Petitioner dated 12.08.2019 was considered and there were enquiries conducted on 18.09.2019, 14.10.2019 and 27.11.2019, on which dates, the Petitioner also appeared in person and the show cause notice dated 11.03.2020 was issued to the Petitioner. But, the Respondents passed



WEB COPY

the impugned orders without any authority of law and imposed multiple punishments on the Petitioner.

17. As stated above, the disciplinary proceedings were initiated against the Petitioner based on the checking made by the Ticket Checking Inspectors at the relevant point of time. Even though conflicting issues are raised by both the parties, the allegation made by the Respondent Corporation cannot be brushed aside at one stroke. However, it would be appropriate to go into the question as to whether the impugned punishment of reduction in pay to minimum with cumulative effect and treating the suspension period as leave period, is commensurate or proportionate with the charges levelled against the Petitioner and also as contemplated under the relevant Standing Orders of the Respondent Corporation or not.
18. It is trite that the High Courts, exercising jurisdiction under the Article 226 of the Constitution of India, are not hearing an appeal, against the decision of the disciplinary authority, imposing punishment upon a delinquent employee. The jurisdiction, exercised by the High Courts, is a limited one and while exercising the power of judicial review, they cannot set aside the punishment altogether or impose some other penalty unless it is found that there has been a



WP(MD).28061 of 2022

WEB COPY

substantial non-compliance of the rules of procedure or a gross violation of principles of natural justice, which has caused prejudice to the employee and has resulted in miscarriage of justice or the punishment is shockingly disproportionate to the gravamen of the charge.

19. At this juncture, it is appropriate to quote the relevant Standing Orders of the Respondent Corporation, as under:-

“25. Punishments for Misconduct:-

1. The following shall be prescribed as punishment that may be awarded to workman.

i) Censure (Minor)

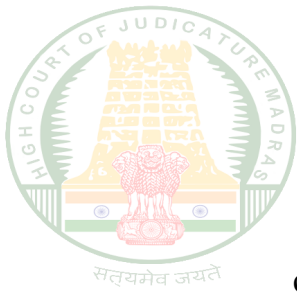
ii) Fine subject to the provisions of Payment of wages Act (Minor)

iii) Stoppage of increment: Stoppage of increment or without cumulative effect.

iv. A Recovery from wages whole or part of any pecuniary loss, caused to the Corporation by the negligence or breach of orders of the workers.

b. Recovery from pay to the extent necessary of the monetary value equivalent to the amount of increments ordered to be withheld, where such an order cannot be given effect.

c. Recovery from pay to the extent necessary of the monetary value equivalent to the amount of deduction to a lower stage in a time-scale ordered where such an order where such an order



WEB COPY

cannot be given effect to.

Explanation: In cases of stoppage of increment with cumulative effect the monetary value equivalent to three times the amount of increment ordered to be withheld may be recovered.

v. Demotion to lower post or lower grades No workman shall be demoted to any post or grade lower than to which he was initially recruited under the Corporation.

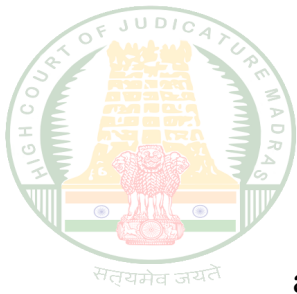
vi. Suspension as a specific punishment not exceeding 30 days

vii. Removal from service or discharge.

viii. Dismissal from service.

20. The Coordinate Bench of this Court, by its *judgement and order dated 23.03.2018, in WP.No.6174 of 2009 (M.Sankar Vs. Tamil Nadu State Transport Corporation Limited, Villupuram, Tamil Nadu)* was pleased to observe as under:-

“10. This Court considered the rival submissions of the learned counsel for parties and perused the materials and pleadings placed on record. There is considerable force in the contention put forth by the learned counsel for the petitioner that as per the rules, the reduction in pay is not provided as one of the punishments and therefore, the imposition of such punishment is without the authority of law. More over, as rightly contended by the learned counsel for the petitioner that it is not open to the management to impose multiple punishments for the same act of misconduct. In this case, not only his pay has been reduced, but there was stoppage of increment for a period of three years with cumulative effect coupled with the fact that the suspension period was ordered to be treated as eligible leave to his credit. Thus the employee was imposed with three punishments,



WEB COPY

according to the learned counsel for the petitioner.

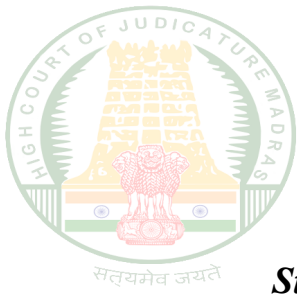
11. However, this Court is of the considered view that the regularisation of suspension period of an employee depends upon various factors and adjustment of leave to his credit during the period of suspension is one of the methods of regularization of suspension period. Therefore, this cannot be considered as one of punishment. But at the same time, the imposition of punishment of reduction in pay, is not provided for in the service regulations and therefore, such imposition of penalty cannot be countenanced both in law and on facts.

12. For the above said reasons, this Court sets aside the impugned penalty ordered by the respondent in Memo No. 318/318/Sa5/TNSTC/06 dated 11.03.2009 only to the extent, the imposition of punishment of reduction in pay by three stages. The other portion of the impugned order regarding stoppage of increment of three years and regularisation of suspension period shall remain as it is.

13. In view of the above, this Court directs the authority to pass suitable order as indicated above and grant attendant benefits to the petitioner on such modification of the penalty. The consequential order shall be passed by the respondent, within a period of eight weeks from the date of receipt of a copy of this order.

14. With the above direction, this Writ Petition is allowed in part. No costs.”

21. Following the above said referred decision of the Madras High Court, the Madurai Bench of the Madras High Court, by its *judgement and order, dated 16.03.2020, in WP(MD)No.3039 of 2020 (2008 (1) MLJ 224 (M.Selvadurai Vs. The Managing Director, Tamil Nadu*



WP(MD).28061 of 2022

WEB COPY

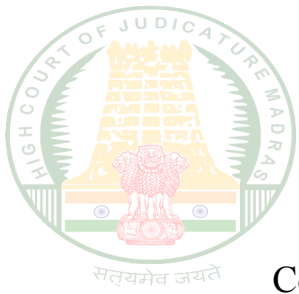
State Transport Corporation Limited, Kumbakonam, Tamil Nadu)

was pleased to observe as under:-

“8. In my considered opinion, the above decision is squarely applicable to the facts and circumstances of the present case. Accordingly, the impugned order passed by the 2nd respondent in TNSTC/Kumba/D02/KuNa1/136/2018 dated 17.01.2019, imposing the punishment of reduction in basic pay by five stages, is modified as the punishment of stoppage of increment for three years with cumulative effect and the respondents are directed to pass suitable orders and grant monetary benefits to the petitioner on such modification of penalty. The consequential order shall be passed by the respondents within a period of eight weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is allowed in part. No costs. Consequently, connected miscellaneous petitions are closed.

22. On perusal of the above said Standing Orders of the Respondent Corporation and in the light of the above said referred decisions, in the present case, this Court finds that there is considerable force in the contentions put forth by the learned counsel for the petitioner that as per the Standing Orders of the Respondent Corporation, the reduction in pay is not all contemplated as one of the punishments and therefore, the imposition of such punishment is without the authority of law and without jurisdiction and also excessive. Consequently, this



WP(MD).28061 of 2022

WEB COPY

Court is of the view that such imposition of punishment cannot be countenanced both in law and on facts, as the Respondents are not empowered to impose a different punishment other than what is specified in the Standing Orders of the Respondent Corporation.

23. To sum and substance, this Court is of the view that the action of Respondent Corporation, in imposing a punishment of reduction in pay to minimum with cumulative effect and ordering the suspension period to be treated as a leave period, which are not contemplated under the relevant Standing Orders of the Respondent Corporation, appears to be unjustified and illegal and is liable to be quashed.
24. In the result, in the light of the observations and the discussions made above and in the light of the above said referred decisions, this Writ Petition **is allowed**. The impugned order, dated 20.11.2020, passed by the 1st Respondent in TNSTC/TS/T3/16/19 and the order, dated 15.06.2020 in TNSTC/TST3/16/19 passed by the 2nd Respondent **are hereby quashed**. Since at the time of filing of this Writ Petition, the Petitioner was aged 58 years, by this time, he would have attained the age of superannuation. The Respondents are directed to pass suitable orders for disbursal of the corresponding terminal benefits and grant



WP(MD).28061 of 2022

WEB COPY

all other consequential corresponding benefits to the Petitioner. The said exercise shall be completed by the Respondents, within a period of two months from the date of receipt of a certified copy of this order.

25. There is no order as to costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

07.04.2025

Index: Yes/No
Web: Yes/No
Speaking/Non Speaking
Neutral Citation
Srcm

To

1. The Managing Director, Tamil Nadu State Transport Corporation (Kumbakonam) Limited, Kumbakonam
2. The General Manager, Tamil Nadu State Transport Corporation (Kumbakonam) Limited, Kumbakonam



WEB COPY



WP(MD).28061 of 2022

SHAMIM AHMED, J.

Srcm

Pre-Delivery Order in
WP(MD)No.28061 of 2022

07.04.2025