

WP(MD)No.23220 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 21.07.2025

PRONOUNCED ON : 24.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE SHAMIM AHMED

WP(MD)No.23220 of 2021  
WMP(MD)No.18646 of 2021

E.Balasubramanian, S/o.Esakimuthu Nadar  
Andar Kuzham, Ramapuram Post  
Kanyakumari District

Petitioner(s)

Vs

1. The Managing Director, State Express Transport Corporation  
Tamil Nadu Limited, Chennai 600002
2. The General Manager, State Express Transport Corporation  
Tamil Nadu Limited, Chennai 600002
3. The Branch Manager, State Express Transport Corporation  
Tamil Nadu Limited, Kanyakumari Depot  
Kanyakumari

Respondent(s)

Prayer:- This Writ Petition has been filed, under the Article 226 of the Constitution of India, to issue a Writ of Certiorari and Mandamus, to call for the records relating to the order of the 2nd Respondent in K.A.No. 015533/L10/SM/TNSETC/2015, dated 21.09.2019 and to quash the same and consequently to direct the Respondents to fix the revised scale of pay



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to the Petitioner.

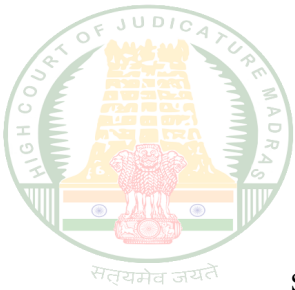
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For Petitioner (s) : Mr.B.Vinoth Kumar

For Respondent(s) : Mr.S.C.Herold Singh

### ORDER

1. This Writ Petition has been filed to issue a Writ of Certiorari and Mandamus, to call for the records relating to the order of the 2nd Respondent in K.A.No.015533/L10/SM/TNSETC/2015, dated 21.09.2019 and to quash the same and consequently to direct the Respondents to fix the revised scale of pay to the Petitioner.
2. The facts of the case, in a nutshell, led to filing of this Writ Petition, as set out in the affidavit filed in support of this Writ Petition and necessary for disposal of same, are as follows:-
  - a) The Petitioner was appointed as a 2<sup>nd</sup> Grade Driver in the Respondent / State Express State Transport Corporation Tamil Nadu Limited, Nagapattinam Depot on 16.04.1987. On 01.08.2008, the pay scale of the Petitioner was fixed at Rs.9675-5-200-20200/- and thereafter, there was no review of his service and salary. The Petitioner retired as a Senior Grade Driver on 30.04.2016 on attaining the age of superannuation.
  - b) As per the norms of the Respondent Transport Corporation, the

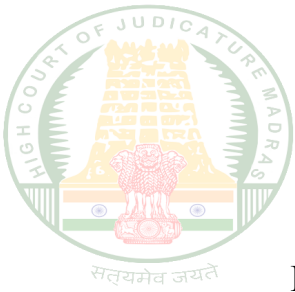


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service of the Drivers are reviewed for every 7 years. Hence, the Petitioner had made a representation, requesting the Respondents to revise his salary from September 2008. Since the Respondents did not take any steps, he had filed WP(MD)No. 4898 of 2015, which was disposed by the Writ Court on 13.12.2018, directing the 2nd Respondent to consider his representation, seeking revision of salary on par with the other Drivers working in the Respondent Transport Corporation, within a period of 6 weeks from the date of receipt of the copy of the order.

- c) Since no action was taken, the Petitioner had filed Contempt Petition(MD)No. 1078 of 2019, which was closed by the Coordinate Bench of this Court on 23.09.2019, on the ground that the representation of the Petitioner was rejected, by the order of the 2nd Respondent in K.A.No.015533/L10/SM/ TNSETC/2015, dated 21.09.2019 on the ground that the Petitioner suffered penalty of withholding of increments with cumulative effect for more than 72 months for several irregularities and he had suffered leave on loss of pay for 540 days. Due to his illness, the Petitioner could not approach this Court in time. Hence, contending that since the Respondents have not stated as to under what provision the



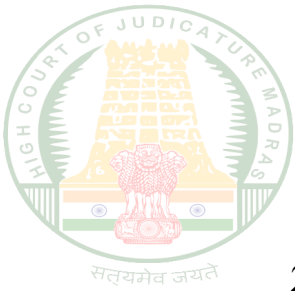
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Petitioner is not eligible for the revision of pay scale of the Petitioner for the relevant period and in the absence of any record to show that 11 punishments were imposed on the Petitioner, the impugned order is illegal and in violation of principles of natural justice, this Writ Petition has been filed, seeking the prayer as stated above.

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

- a) The Employees of the Respondent Corporation are bound by the Standing Orders as well as the 12(3) Settlements entered into from time to time by the Employees as well as the Management. The Petitioner was appointed as a Driver in the Respondent Corporation on 16.04.1987 and his services were regularized on 01.01.1998 and he retired on 30.04.2016, after attaining the age of superannuation. The Petitioner had filed WP(MD)No.4898 of 2015, seeking revision of his salary as a Senior Grade Driver and the said Writ Petition was disposed of by the Coordinate Bench of this Court on 13.12.2018, directing the 2<sup>nd</sup> Respondent to consider the representation of the Petitioner. Alleging non-compliance of the said order of the Writ Court, the Petitioner had filed Contempt Petition(MD)No.1078 of

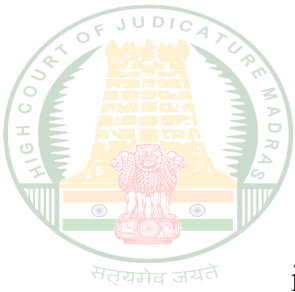


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2019. In the meantime, the representation of the Petitioner was rejected on 21.09.2019 on the ground that the Petitioner suffered 72 months postponement of increments with cumulative effect for certain irregularities. In view of the said fact, the said Contempt Petition was closed by the order of the Coordinate Bench of this Court on 23.09.2019.

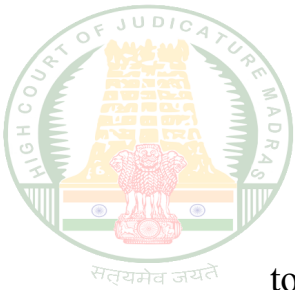
- b) As the Petitioner suffered various punishments, he is not entitled for the benefit of revision of salary on par with the other Drivers. On 06.06.1991, he was imposed with the punishment of postponement of increment with cumulative effect for 12 months. On 27.10.1993, again for causing a minor accident, his increment was postponed with cumulative effect for 12 months. On 09.01.2004, for causing a major accident, his increment was postponed for 36 months with cumulative effect. On 31.08.2007, for causing a minor accident, his increment was postponed without cumulative effect for 3 months. On 06.08.2009, for allowing arrack/prohibited articles in the vehicle, his pay was reduced to the minimum basic. Again on 04.06.2011, he was imposed with the punishment of postponement of increment for 36 months for allowing arrack/ prohibited articles in the vehicle. On 02.12.2011, he suffered with the punishment of postponement of



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increment for 6 months for causing a major accident. On 22.03.2013, his increment was postponed with cumulative effect for 12 months for his misbehaviour at the rest room. On 13.05.2013, his increment was postponed for 6 months with cumulative effect. On 23.08.2013, his increment was postponed with cumulative effect for 12 months for being under the influence of alcohol, while on duty. On 22.06.2015, the Petitioner suffered postponement of increment with cumulative effect for 12 months for his disorderly behaviour. The Petitioner attained the age of superannuation on 30.04.2016. In addition to this, he also suffered Leave on loss of pay for 540 days. All these incidents led the Petitioner to receive lesser salary than that of his colleagues. The Petitioner, having suffered various punishments, cannot seek the benefits on par with others. Hence, this Writ Petition is liable to be dismissed.

4. This Court heard Mr.B.Vinoth Kumar, the learned counsel for the Petitioner and Mr.S.C.Herold Singh, the learned Standing Counsel for the Respondents.
5. The learned counsel for the Petitioner has submitted that already similarly placed Employees were granted revised scale of pay and hence, deprivation of such benefit to the Petitioner alone would amount



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to discrimination and violation of the principles of natural justice and that in the impugned order, the 2nd Respondent miserably failed to state as to under what provision of law, the Petitioner is not entitled for the revised scale of pay, as he suffered 540 days loss of pay and the penalty of withholding increments for more than 72 months with cumulative effect and hence, the impugned is a non-speaking order and it was passed without application of mind and hence, the impugned order is not sustainable and consequently, the Petitioner is eligible to get the revision of salary from 2008 to 2016.

6. The learned Standing Counsel for the Respondents, while reiterating the averments made in the counter affidavit filed by the 2nd Respondent, submits that the Petitioner is not entitled for revision of salary, as he had suffered 540 days leave on loss of pay and as from 2008, the Petitioner suffered penalty of withholding of increments with cumulative effect for more than 72 months for several irregularities and since as many as on 11 occasions, on 22.06.2015, 23.08.2013, 13.05.2013, 22.03.2013, 02.12.2011, 04.06.2011, 06.08.2009, 31.08.2007, 09.01.2004, 27.10.1993 and 06.06.1991, the Petitioner was imposed with several punishments, namely, postponement of increment with cumulative effect and reduction in

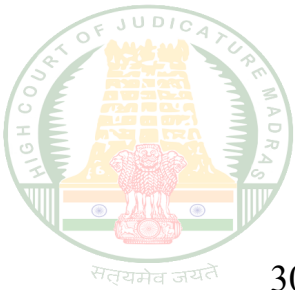


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his basic pay, for certain irregularities and thus, the claim of the Petitioner for revision of salary for the relevant period is hit by laches and hence, this Writ Petition is liable to be dismissed.

7. In reply to the above said contentions of the learned Standing Counsel for the Respondents, the learned counsel for the Petitioner, reiterating the averments made in the rejoinder affidavit, has further submitted that though it is stated in the counter affidavit that 11 punishments were imposed on the Petitioner, there is no record to show such punishments were imposed on the Petitioner on 11 occasions and that the aforesaid 11 disciplinary proceedings were not properly conducted in the manner known to law and hence, the Petitioner is eligible for periodical revision of scale of pay from 2008 to 2016.
8. 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.
9. Admitted facts are that the Petitioner was appointed as a 2<sup>nd</sup> Grade Driver in the Respondent Transport Corporation on 16.04.1987. On 01.08.2008, the pay scale of the Petitioner was fixed at Rs. 9675-5-200-20200 and thereafter, there was no review of his service and salary. The Petitioner retired as a Senior Grade Driver on





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30.04.2016. The impugned order, denying the revision of pay scale of the Petitioner, was passed on 21.09.2019.

10. The main contention of the Petitioner is that the impugned order had been passed, denying the revision of salary is illegal, as it is a non speaking order, it was passed without application of mind and there is no record to show that the 11 punishments, based on which the impugned order was passed, were imposed on him and it is also not stated in the impugned order as to under what provision, the Petitioner is not entitled for the revised scale of pay, as he suffered 540 days loss of pay and the penalty of withholding increments for more than 72 months with cumulative effect.
11. On the other hand, it is the case of the Respondents that the Petitioner is not entitled for revision of salary, as he had suffered 540 days leave on loss of pay and from 2008, the Petitioner suffered penalty of withholding of increment with cumulative effect for more than 72 months for several irregularities and since as many as on 11 occasions, i.e. on 22.06.2015, 23.08.2013, 13.05.2013, 22.03.2013, 02.12.2011, 04.06.2011, 06.08.2009, 31.08.2007, 09.01.2004, 27.10.1993 and 06.06.1991, the Petitioner was imposed with several punishments, for certain irregularities committed by him.



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12. On perusal of the materials available on record, it is seen that the Petitioner had sought for revision of salary from 2008 to 2016 and it was denied by the impugned order of the Respondents on the ground that the Petitioner had suffered as many as 11 punishments and leave on loss of pay for 540 days. According to the Petitioner, except for three punishments, the Petitioner was not brought to notice of other punishments.

13. Be that as it may. The present Writ Petition was filed on 23.12.2021 and the Counter Affidavit was filed by the Respondents on 17.07.2024.

14. Thereafter, on 16.08.2024, the Coordinate Bench of this Court was pleased to pass the following interim order:-

*“The petitioner has challenged the order rejecting his request for pay revision. The second respondent under the impugned order has rejected the request of the petitioner on the ground that he is not entitled for pay revision since several punishments have been imposed on him.*

*2.Learned Counsel for the petitioner would submit that except for three punishments, the other punishments referred to in the counter affidavit filed by the respondents were not brought to the notice of the petitioner.*

*3.In the counter affidavit filed by the respondents before this Court, it is seen that the petitioner was imposed with 11 punishments. However, all the punishment orders are not placed on record before this Court.*



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*4.Learned Counsel for the petitioner also submits that the respondents be directed to produce the evidence to show that the petitioner was served with all the punishment orders which are reflected in the counter affidavit.*

*5.To ascertain the truth, the respondents are directed to place all the punishment orders passed against the petitioner which are reflected in the counter affidavit before this Court in the next hearing date and they are also directed to inform this Court as to whether all those punishment orders were served on the petitioner.*

*6.Post the matter “for arguments finally” on 30.08.2024. ”*

15. Thereafter, on 14.02.2025, when the matter came for consideration before this Court, this Court was pleased to pass the following interim order:-

*“This Court, vide order dated 16.08.2024, had passed the following order:-*

*“The petitioner has challenged the order rejecting his request for pay revision. The second respondent under the impugned order has rejected the request of the petitioner on the ground that he is not entitled for pay revision since several punishments have been imposed on him.*

*2.Learned Counsel for the petitioner would submit that except for three punishments, the other punishments referred to in the counter affidavit filed by the respondents were not brought to the notice of the petitioner.*

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*5.To ascertain the truth, the respondents are directed to place all the punishment orders passed against the petitioner which are reflected in the counter affidavit before this Court in the next hearing date and they are also directed to inform this Court as to whether all those punishment orders were served on the petitioner. 6.Post the matter “for arguments finally” on 30.08.2024.”*

*2. Mr.S.C.Herold Singh, learned Standing Counsel for the first respondent prays three weeks time to comply with the order of this Court dated 16.08.2024.*

*3.Accordingly, as a last opportunity, the respondents are granted three weeks time to comply with the order dated 16.08.2024 and file documents by way of a supplementary counter affidavit in this regard and thereafter, one week and no more time is granted to the learned counsel for the petitioner to file a rejoinder affidavit to the counter affidavits filed by the respondents. 4.Put up this case ‘for final hearing’ on 29.04.2025 before the appropriate Bench ”*

16. Thereafter, again on 29.02.2025, when the matter came for consideration before this Court, this Court was pleased to pass the following interim order:-

*“This Court, vide order, dated 14.02.2025, had passed the following order:*

*“This Court, vide order dated 16.08.2024, had passed the following order:-*



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*“The petitioner has challenged the order rejecting his request for pay revision. The second respondent under the impugned order has rejected the request of the petitioner on the ground that he is not entitled for pay revision since several punishments have been imposed on him.*

*2.Learned Counsel for the petitioner would submit that except for three punishments, the other punishments referred to in the counter affidavit filed by the respondents were not brought to the notice of the petitioner.*

*3.In the counter affidavit filed by the respondents before this Court, it is seen that the petitioner was imposed with 11 punishments. However, all the punishment orders are not placed on record before this Court.*

*4.Learned Counsel for the petitioner also submits that the respondents be directed to produce the evidence to show that the petitioner was served with all the punishment orders which are reflected in the counter affidavit.*

*5.To ascertain the truth, the respondents are directed to place all the punishment orders passed against the petitioner which are reflected in the counter affidavit before this Court in the next hearing date and they are also directed to inform this Court as to whether all those punishment orders were served on the petitioner.*

*6.Post the matter “for arguments finally” on 30.08.2024.”*

*2. Mr.S.C.Herold Singh, learned Standing Counsel for the first respondent prays three weeks time to comply with the order of this Court dated 16.08.2024.*

*3.Accordingly, as a last opportunity, the respondents are granted three weeks time to comply with the order dated 16.08.2024 and file documents by way of a supplementary counter affidavit in this regard and thereafter, one week and no more time is granted to the learned counsel for the petitioner to file a rejoinder affidavit to the counter affidavits*



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*filed by the respondents.*

*4.Put up this case 'for final hearing' on 29.04.2025 before the appropriate Bench."*

*2.Mr.S.C.Herold Singh, learned Counsel for the first respondent, prays to grant some more time to comply with the order passed by this Court, dated 14.02.2025.*

*3.Mr.B.Vinoth Kumar, learned Counsel for the petitioner has no objection to the prayer made by the learned Counsel for the first respondent.*

*4.Accordingly, as prayed for by the learned Counsel for the first respondent, a further period of three weeks is granted to comply with the order of this Court, dated 14.02.2025. It is made clear that no further time will be granted in future.*

*5.Put up this case on 09.06.2025 "For Final Hearing" before the appropriate Bench. "*

17. Thereafter, again on 09.06.2025, when the matter came for consideration before this Court, this Court was pleased to pass the following interim order:-

*"Mr.S.C.Herold Singh, learned standing counsel for the first respondent submits that due to summer vacation, he could not obtain the documents, as directed by this Court, vide order dated 29.04.2025 and 14.02.2025 and prays to grant some more time to comply with the aforesaid order dated 29.04.2025 and 14.02.2025, directing to file documents by way of supplementary counter affidavit, before the final arguments took place.*

*2.Mr.B.Vinoth Kumar, learned counsel for the petitioner has no objection to the prayer made by the learned standing counsel for the first respondent.*



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*3. Accordingly, as prayed for by the learned standing counsel for the first respondent, as a last opportunity, a further period of 10 days and no more further time is granted to make compliance of the order passed by this Court, dated 29.04.2025 and 14.02.2025. It is made clear that if the order is not complied with by then, the case will be taken up for final hearing on the next date of hearing.*

*4. Put up this case on 10.07.2025 “for final hearing” before the appropriate Bench. ”*

18. In all the above said orders of this Court, dated, 16.08.2024, 14.02.2025, 29.04.2025, 09.06.2025, the specific direction of this Court to the Respondents is to produce the relevant records to show that 11 punishments were imposed on the Petitioner for certain irregularities, as alleged in the counter affidavit filed by the Respondents and that under what provision the Petitioner is not entitled for revision of salary for the relevant period for having suffered such punishments. This Court had granted several and sufficient opportunities to the Respondents to produce the relevant records regarding 11 punishments, on the basis of which, the Petitioner was denied revision of salary, by the impugned order.

19. Even when the matter is taken up for consideration today, the learned Standing Counsel for the Respondents has submitted that the entire records, relating to the Petitioner and the aforesaid 11 punishments as





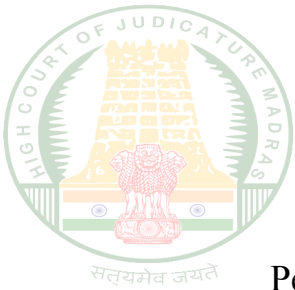
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alleged in the counter affidavit, have been misplaced and they are not able to trace out the same from the Office of the Respondents. The learned Standing Counsel for the Respondents has argued the case without producing any records, as directed by this Court on several occasions. The learned Standing Counsel for the Respondents has not produced any order of punishment in respect of the alleged 11 punishments imposed on the Petitioner, as per the assurance and statements given by him on the earlier occasions. The learned Standing Counsel for the Respondents is also not able to point out any provision of law for denying the revision of salary on the ground that the Petitioner suffered the punishments as stated above and was not able to justify this Court that proper procedures and rules were followed, while imposing 11 punishments to the Petitioner.

20. Thus, it is seen that the Respondents have not complied with the earlier directions of this Court, by not producing the relevant records before this Court as assured by them under what provisions the 11 punishments were imposed to the Petitioner. The impugned order was passed relying on those 11 punishments stated to have been imposed on the Petitioner on certain irregularities. There is nothing on record to show that such punishments were imposed on the





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Petitioner. Since this Court finds no records to substantiate the alleged 11 punishments, based on which, the Petitioner was denied of the revision of his salary for the relevant period by the impugned order, the impugned order is illegal and arbitrary and would amount to violation of principles of natural justice and accordingly, it cannot be sustained.

21. Further, since the Respondents failed to produce relevant records in spite of several opportunities given to them, this Court is of the view that the impugned order had been passed with a mala fide intention only to harass the Petitioner and it would amount to utter violation of principles of natural justice, as it was passed without following the procedure contemplated under law. Since the impugned order does not speak about under what provision the Petitioner was denied of revision of salary on the ground of alleged 11 punishments, it can be safely held that the impugned order is a non speaking order and it was passed, without application of mind. In such view of the matter, this Court has no other option, except to set aside the impugned order, as it is not supported by any documents, by allowing this Writ Petition.
22. In the result, in the light of the observations and the discussions made above, this Writ Petition is **allowed**, as prayed for. The impugned



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order of the 2nd Respondent in K.A.No.015533 /L10/SM/TNSETC/2015, dated 21.09.2019 is hereby quashed. The Respondents are directed to fix the revised scale of pay to the Petitioner from the year 2008 to 2016, as prayed for. The Respondents are directed to pay the arrears of revision of salary within a period of six weeks from the date of receipt of a certified copy of this order and continue to pay the pension at the revised rate to the Petitioner month to month basis without fail.

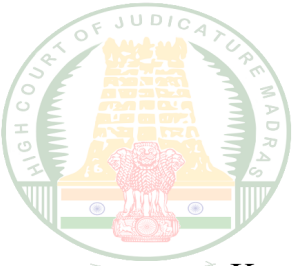
23. There is no order as to costs. Consequently, the connected Writ Miscellaneous Petition is closed.

24.07.2025

Index:Yes.No  
Web:Yes.No  
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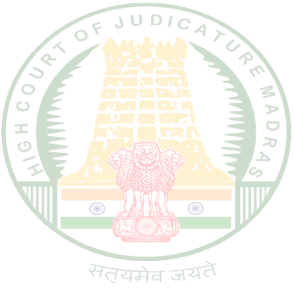
To

1. The Managing Director, State Express Transport Corporation  
Tamil Nadu Limited, Chennai 600002
2. The General Manager, State Express Transport Corporation  
Tamil Nadu Limited, Chennai 600002
3. The Branch Manager, State Express Transport Corporation  
Tamil Nadu Limited, Kanyakumari Depot



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Pre-Delivery Order in  
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