



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 11.11.2016

C O R A M

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THE HONOURABLE DR.JUSTICE **S.VIMALA**

Writ Petition (MD) No.21568 of 2016
and
W.M.P(MD) No.15431 & 15432 of 2016

S.Palraj

... Petitioner

Vs.

1.The Management of State
Express Transport Corporation
(Tamil Nadu) Ltd.,
Rep. by its Managing Director,
Pallavan Salai,
Chennai - 600 002.

2.The General Manager,
The State Express Transport corporation
(Tamil Nadu) Ltd.,
Pallavan Salai,
Chennai - 600 002.

3.The Branch Manager,
The State Express Transport corporation
(Tamil Nadu) Ltd.,
Thoothukudi Branch,
Thoothukudi.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, declaring the action of the respondents in imposing ticket book recovery of Rs.40,960/- on the petitioner and refusing to provide him duty in the post of Conductor at Thoothukudi Branch of the 1st respondent Corporation on the ground that he has not remitted the recovery amount is illegal and arbitrary and consequently direct the respondents to permit him to join duty in the post of Selection Grade Conductor at Thoothukudi Branch of the 1st Respondent corporation and to further directing the respondents to pay wages to the petitioner in the post of Selection Grade Conductor with effect from 26.10.2016 to till the date of providing duty to the petitioner.



For Petitioner

... Mr.A.Rahul

For Respondents

... Mr.K.Sathiya Singh

O R D E R

This is a writ of Declaration, declaring the action of the respondents in imposing ticket book recovery and refusing to provide him duty in the post of Conductor at Thoothukudi Branch of the 1st respondent Corporation on the ground that he has not remitted the recovery amount, as illegal and arbitrary and consequently direct the respondents to permit the petitioner to join duty in the post of Selection Grade Conductor at Thoothukudi Branch of the 1st Respondent corporation and to further direct the respondents to pay wages to the petitioner in the post of Selection Grade Conductor with effect from 26.10.2016 to till the date of providing duty to the petitioner.

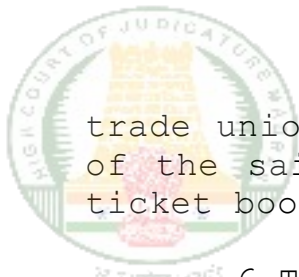
2.Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3.The petitioner was employed as a Conductor in Route No.702-B in the bus bearing Registration No.TCN-B/986 from Thoothukudi to Chenganacheri, State of Kerala.

3.1. It is the case of the petitioner that a passenger who boarded the bus at Thenkasi to go to Kottarakarai, Kerala, was in an inebriated condition and he refused to buy ticket and entered into wordy quarrel with the petitioner. Thereafter, due to intervention of the Police, the passenger received ticket and thereafter, when the bus reached Panthalam Town, the said passenger suddenly alighted from the bus with unused ticket book bundles which was kept in the petitioner's ticket box. Immediately, the petitioner stopped the bus and tried to chase him. But the passenger could not be traced. The ticket bundles having the face value of Rs.40,960/- was missing.

4.In this regard, a complaint was lodged to Panthalam Police and a case was registered in Petition No.146591 of 2016. Thereafter, the respondents have passed an order seeking recovery of Rs.40,960/-. The third respondent has stated that unless the petitioner remit the said amount, he will not be provided with duty. Challenging the same, the writ petition has been filed.

5.The main contention of the learned counsel for the petitioner is that the face value of the missing ticket is Rs.40,960/- and it is an unsold ticket and it is also pointed out that there is a 12(3) settlement that was entered into between the



trade unions and the respondents corporation and as per Clause 17 of the said settlement, no recovery can be made for the loss of ticket book.

6. The further contention of the learned counsel for the petitioner is that the denial of work is illegal, as contemplated under Section 25-M of the Industrial Disputes Act, 1947 and therefore, there must be a direction to the respondents to provide employment to the petitioner immediately.

7. The contention of the petitioner is substantiated by producing the First Information Report of the Panthalam Police Station. As rightly pointed out by the learned counsel for the petitioner, it is only the face value of the tickets, in respect of which, 12(3) settlement has been entered into between the trade unions and the respondents corporation. Under such circumstances, the order for recovery calling upon the petitioner to pay the sum of Rs.40,960/- is hereby quashed.

8. So far as providing duty to the petitioner is concerned, once an order of recovery is set aside, in the light of 12(3) settlement, it is the responsibility of the respondents to provide duty to the petitioner.

9. Contending that the petitioner is entitled to duty, a representation dated 31.10.2016 has been already submitted to the respondent. There is an assurance on the part of the learned counsel for the respondents that this representation will be considered.

10. The petitioner is directed to give a fresh copy of the representation dated 31.10.2016 to the General Manager of the Express Transport Corporation and on such representation being submitted, the same shall be considered, in the light of the findings given by this Court, especially in the light of quashment of the order of recovery, within a period of two weeks from the date of receipt of a copy of this order.

11. In the result, the writ petition is allowed. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar



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Thoothukudi.

+1 cc to MR.A.RAHUL, Advocate SR.No.68271

+1 cc to MR.K.SATHIYA SINGH, Advocate SR.No.68793

W.P.(MD) No.21568 of 2016

11.11.2016

SMA/CM-MSA/15.02.2017:4P/6C