

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.4994 of 2017
and W.M.P.No.5256 of 2017

R.Masilamani

..Petitioner

Vs

1. The Managing Director,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,
No.12, Ramakrishna Road,
Salem - 636 007.

2. The General Manager,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,
No.12, Ramakrishna Road,
Salem - 636 007.

3. The Branch Manager,
Namakkal Town Branch,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,
Namakkal.

..Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records from the 2nd respondent's Notice No.30-508-D6-Tha.A.Poka-2015 dated 15.02.2017 relating to recovery of Rs.72,441/- from petitioner's salary and quash the same and consequently direct the 3rd respondent to grant the petitioner's salary without recovery.

For Petitioner : Mr.P.Saravanan

For Respondents: Mr.P.Paramasivadoss
Standing counsel for
Transport Corporation.

O R D E R

By consent, the writ petition is taken up for final disposal. Mr.P.Paramasivadoss, learned Standing Counsel for Transport Corporation accepts notice on behalf of the

respondents.

2. The petitioner, while working as a Conductor of the bus bearing Registration No.TN30 N1174 which was plying between Salem and Dindigul lost the passenger tickets and in this regard, he has also lodged a complaint on the file of Pallipatty Police Station and based on which, C.S.R..No.318/2014 was registered on 08.12.2014. Subsequently, the petitioner has also informed the 3rd respondent about the loss of tickets vide his representation dated 09.12.2014.

3. The 2nd respondent, vide communication dated 12.02.2015 has informed him that the loss of tickets is worth Rs.72,441/- and it would amount to dereliction of duty and it is in violation of Standing Order of TNSTC Section 19(1)L and therefore, he was called upon to submit his explanation within a period of four weeks from the date of receipt of the said notice, failing which, further proceedings will be taken. The petitioner, in response to the show cause notice, submitted his reply dated 20.03.2015 stating that the loss of tickets on his part is inadvertent one and immediately, he had lodged a complaint with the jurisdiction police and steps are being taken to trace the tickets. The petitioner has also submitted a sympathy petition dated 05.12.2015 to the respondents in that regard. However, the 2nd respondent, vide impugned communication dated 15.02.2017 has recorded the fact that the petitioner did not offer his explanation to the show cause notice and though he deserves severe punishment, taking into sympathetic consideration, an order came to be passed ordering deduction of Rs.72,441/- from his monthly salary. Challenging the legality of the same, the petitioner came forward to file this writ petition.

4. Learned counsel for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that as per Section 12(3) Settlement of the year 2007, in the event of loss of tickets, the amount cannot be recovered and would further submit that though he has submitted his response to the show cause notice dated 20.03.2015, the 2nd respondent, while passing the impugned order, have not taken note of the same and therefore, prays for interference. In support of his arguments, learned counsel has also placed reliance on the judgment of this Court reported in 2003(1) LLJ 1021 (Palanisamy v. Management of Rani Mangammal Transport Corporation).

5. Per contra, Mr.P.Paramasivadosh, learned Standing Counsel appearing for the respondents would submit that the petitioner, challenging the order of punishment has also filed appeal memorandum dated 22.02.2017 to the 1st respondent and the said appeal will be disposed of on merits and in accordance with law as expeditiously as possible.

6. This Court has carefully considered the rival submissions and also perused the materials placed it.

7. Though the petitioner prays for a larger relief, this Court in the light of the above facts and circumstances,

directs the 1st respondent to afford an opportunity of personal hearing to the petitioner and thereafter consider the petitioner's appeal memorandum dated 22.02.2017 on merits and in accordance with law and pass orders on or before 02.05.2017 and communicate the decision taken to the petitioner. Till such time, the respondents shall defer all further proceedings in pursuant to the order of recovery dated 15.02.2017 passed by the 2nd respondent. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

vsi

To

1. The Managing Director,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,
No.12, Ramakrishna Road,
Salem - 636 007.
2. The General Manager,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,
No.12, Ramakrishna Road,
Salem - 636 007.
3. The Branch Manager,
Namakkal Town Branch,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,
Namakkal.

+1cc to Mr.P.Saravanan,Advocate sr.12905

+1cc to Mr.P.Paramasivadoss,Advocate sr.13387

W.P.No.4994 of 2017

nrII(co)
ss(15/3/2017)