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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.03.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD).No.3541 of 2018 & 7569 of 2015
and
MP(MD)No.1 of 2015

K.Murugesan ...Petitioner in both Writ Petitions

Vs.

1.The management of
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Dindigul Region,
Represented by its General Manager,
Dindiugul. ...Respondent in both petitions

2.The Administrator,
Tamil Nadu State Transport Employees Pension Fund Trust,
Thiruvalluvar Illam, Anna Salai,
Chennai-2. ...2nd Respondent in W.P.(MD).No.3541 of 2018

PRAYER in W.P.(MD).No.3541 of 2018: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the first respondent to pay the petitioner all his terminal benefits namely EPF Employee's contribution, Gratuity and Encashment of Leave and etc., forthwith together together with 18% interest per annum and further directing the respondents to pay him pension, along with arrears of the same from the month of December 2017 forthwith under TNSTCE Pension Fund Rules, together with 18% interest per annum, within a time frame as may be fixed by this Court.

PRAYER in W.P.(MD).No.7569 of 2015 : Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order of the respondent in Ref.Sa.Thu/A8/8567 dated 16.01.2015 quash the same and consequently to direct the respondent to refund the petitioner the amount already recovered from his monthly wages pursuant to the impugned order and to further direct the respondent to treat the period from 19.02.2014 to 07.03.2014 as his duty period with pay for all purpose.

For Petitioner
<https://hcservices.ecourts.gov.in/hcservices/>
For Respondents

: Mr.S.Arunachalam in both petitions
: Mr.A.Jeyaram in both petitions

COMMON ORDER

Heard Mr.A.Jeyaram, learned counsel, appearing for the respondents in both Writ Petitions.

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2.By consent of both parties, the Writ Petitions themselves are taken up for final disposal.

3.The petitioner is a retired conductor of the respondent/Transport Corporation. 17 Ticket Books under the custody of the writ petitioner got lost. The writ petitioner immediately lodged a theft case with the police thereafter. In this regard, charge memo was issued against the petitioner. Final order of recovery came to be passed against the writ petitioner on 16.01.2015. The same is assailed in these Writ Petitions. On account of pendency of this issue, the terminal benefits payable to the writ petitioner have not been disbursed so far. Therefore, the writ petitioner has filed W.P.(MD).No.3541 of 2018.

4.The issue on hand is no longer res integra. The Hon'ble Division Bench in the decision reported in (2008) 1 MLJ 224 (Management of Rani Mangammal Transport Corporation Limited Vs. M.Palanisamy) has held that when the loss of bus ticket books was not due to any negligence on the part of the bus conductor, no amount can be recovered from him.

5.Following the said decision of the Division Bench, this Court quashes the order impugned in W.P.(MD).No.7569 of 2015. The petitioner retired from service the last year. It is seen that non disbursement of the terminal benefits to the petitioner was only due to the pendency of W.P.(MD).No.7569 of 2015. Since this Writ Petition has been allowed and consequently W.P.(MD).No.3541 of 2018 will also have to be allowed. Both the Writ Petitions stand allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar

To

1.The General Manager, The management of
Tamil Nadu State Transport Corporation (Madurai) Limited,
Dindigul Region, Dindigul.

2.The Administrator,
Tamil Nadu State Transport Employees Pension Fund Trust,
Thiruvalluvar Illam, Anna Salai, Chennai-2.

+One cc to M/s.S.Arunachalam, Advocate, SR.No.54461

tsg

RL/4C/2P/SKN/RSK/SAR4/19/3/2018

ORDER MADE IN

W.P.(MD).No.3541 of 2018 & 7569 of 201512.03.2018