

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 08.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.28419 of 2004
and
W.P.M.P.No.34505 of 2004

Tamilnadu State Transport
Corporation (Salem) Ltd
Salem
rep. by its Managing Director

... Petitioner

Vs

1. The Presiding Officer,
Labour Court, Salem.

2. Secretary/President
Anna Transport Employees Union,
15, Vidyalaya Road, Salem.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to pass an order of Writ of Certiorari, calling for the records of the 1st respondent in I.D.No.1016/98 dated 17.09.2003 and quash the same.

For Petitioner : Mrs.Rajeni Ramadass

For Respondents: Mr.V.Ajoy Khose for R2

O R D E R

The order under challenge in the present writ petition is to the recovery of a sum of Rs.8100/- with interest at the rate of 6% which was recovered from the 2nd respondent towards loss of tickets.

2. The Labour Court had relied upon the settlement arrived between the Trade Union and Management in the year 1995 and in view of the clause therein that loss occurred due to loss of tickets, theft, riots etc., cannot be recovered by the Management from the concerned workmen.

3. The learned Standing counsel for the petitioner submitted that the settlement as stated by the Labour Court cannot be relied upon in the present case, as the incident occurred prior to the settlement.

4. Even otherwise, the learned standing counsel for the petitioner submits that the decision on which the petitioner has relied upon in the case of Palanisamy and Mangement of Rani Mangammal Transport Corporation, Ltd., Dindigul reported in 2002 (4) L.L.N.1129, will not apply to the facts involved in the present case.

5. The learned counsel for the second respondent, on the other hand, submitted that the settlement as well as the decision of this Court cited supra, squarely applies to the case of the 2nd respondent Union and since the clause in the settlement makes a reference to loss of tickets for which recovery cannot be made, hence, there is no infirmity in the award of the Labour Court.

6. I have given careful consideration to the submissions made by respective counsel.

7. On a perusal of the 1995 Settlement Deed, it is seen that there was an agreement between the Union and the Management for not recovering the amount incurred towards loss, theft etc., of bus tickets in which complaint has been made and a Criminal case has been registered.

8. Effectively, the clause refers to pending criminal complaints as on date of the settlement and therefore is deemed to be retrospective in nature, which covers pending cases also.

9. It is not in dispute that after the incident occurred, it was adjudicated before the Labour Court, leading to the impugned award. Since the settlement itself gives retrospective effect to pending cases and the case in hand being a pending case, the analogy in the aforesaid clause of the settlement could be drawn to the present case.

10. The Labour Court had also relied upon Palanisamy's case (supra) in which the same clause in the 1995 Settlement was relied upon. In that case, the ticket books came to be lost in the year 1992. This Court had held that though the settlement was of the year 1995, considering the difficulties in handling the ticket books by the conductor coupled with the signing of the 1995 Settlement, no action could be taken against the conductor for the loss of tickets issued due to accident, theft etc., The above said decision has also been subsequently affirmed by the Hon'ble Division Bench of this Court in (2008) 1 MLJ 224 (Management of Rani Mangammal Transport Corporation Ltd, (now known as Tamil Nadu State Transport Corporation Ltd) Dindigul by its Managing Director Versus M.Palanisamy).

11. As such, I do not find any infirmity in the award passed by the Labour Court. Hence the Writ petition stands

closed. The petitioner shall forthwith pay a sum of Rs.8,100/- along with interest at the rate of 6% to the delinquent workman / member of the 2nd respondent concerned from the date of recovery till the date of filing writ petition (30.09.2004). Such an exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(AD IV)

//True Copy//

Sub Assistant Registrar

vum

To

The Presiding Officer,
Labour Court, Salem.

+1cc to Ms.S.Rajeni Ramadass, Advocate, S.R.No.34130

+1cc to Mr.V.Ajay Khose, Advocate, S.R.No.34447

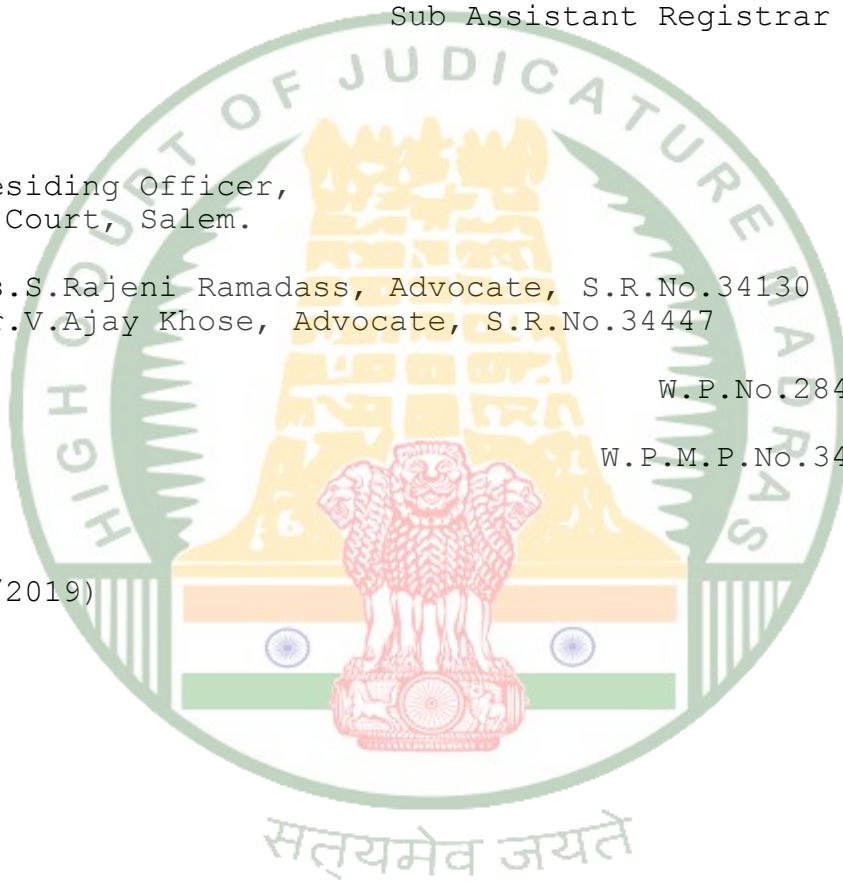
W.P.No.28419 of 2004

and

W.P.M.P.No.34505 of 2004

JP (CO)

RRS (29/05/2019)



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