



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P(MD) No.3220 of 2019

and

W.M.P. (MD) No.2515 of 2019

S.Amsam

... Petitioner

vs

Tamilnadu State Transport Corporation

(Madurai) Ltd.,

represented by its General Manager,

Dindigul Region,

Bye Pass Road, Dindigul.

... Respondent

PRAYER: Writ Petition is 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 dated 05.01.2019 in Parvai:LD7C1/1147 passed by the respondent, quash the same and further directing the respondent to remit the first installment of Rs.4,997/- to the petitioner's savings account, award costs.

For Petitioner : Mr.G.M.Xavier

For Respondent : Mr.A.Jeyaram
Standing Counsel

ORDER

The Writ Petition is filed for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 05.01.2019 in Parvai:LD1C1/1147 passed by the respondent, quash the same and further directing the respondent to remit the first installment of Rs.4,997/- to the petitioner's savings account.

2. Heard the learned Counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondent and perused the materials available on record.



3. The petitioner is working as a conductor in the respondent Transport Corporation and on 31.12.2017 at about 09.15 a.m., when the bus reached Arapalaym bus stand, Madurai, he went for breakfast by keeping the spare unused ticket bundle and ETM machine behind the driver seat. When he returned back, he found that the ticket books were missing. Thereafter, the respondent issued a show cause notice dated 25.10.2018. In spite of the petitioner's explanation, the respondent has issued the impugned order, dated 05.01.2019 and ordered to recover a sum of Rs.49,643/- from his monthly salary in 10 equal monthly installments and the period of 21 days (02.01.2018 to 22.01.2018) of temporary suspension may be treated as eligible leave. Aggrieved by the same, the petitioner has filed the present writ petition.

4. The learned Counsel appearing for the petitioner submitted that a similar case has already been decided by this Court in W.P.No.23395 of 2003, dated 08.01.2013.

5. The relevant portion of the above said order is extracted hereunder:

".....The issue involved in this Writ Petition has come up before this Court in an earlier occasion in Managament of Rani Mangammal Transport Corporation Vs. M.Palanisamy, (2008)1 MLJ, 224 and the Hon'ble Division Bench has held as follows:

"4..... Therefore, if such was the contemplation of the appellant Corporation, in adopting such a course of holding an enquiry, in respect of the loss of unused ticket books is reported, we are of the view that the very purpose would be defeated if the recovery of the value of unused ticket books is automatically made whenever loss is reported. In fact, subsequently, in 1995 settlement namely Clause 29 of the said Settlement makes it clear that in the event of loss of ticket books is reported by way of complaint to the police and such loss had occurred due to accident, theft or robbery, no recovery should be made from the concerned Conductor. The same point of view was very much existing in the earlier proceedings when the appellant Corporation prescribed the procedure of holding an enquiry, wherever loss of ticket books are reported."

In W.P.No.9686 of 2011, the said decision was followed and the writ petition was allowed by the learned Single Judge of this Court by order dated 23.06.2011 and the respondent filed an appeal as against the said order in W.A.No.1122 of 2012 which was dismissed by the Hon'ble I Bench of this Court on 18.07.2012.

4. In that view of the matter, the legal issue having



been settled by the aforementioned decisions, the impugned order is held to be unsustainable. Writ Petition is allowed. No costs. Connected miscellaneous petition is closed. If any amount has been recovered from the petitioner, the same shall be recredited to the petitioner along with the petitioner's salary within a period of three months."

6. The learned Standing Counsel appearing for the respondent has also not disputed the same.

7. In such view of the matter, as agreed by both parties, following the order passed in W.P.No.23395 of 2003, dated 08.01.2013, this writ petition is disposed of in the above terms. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CRL SIDE)

// True Copy //

Sub Assistant Registrar(CS)

To
The General Manager,
Tamilnadu State Transport Corporation
(Madurai) Ltd.,
Dindigul Region,
Bye Pass Road, Dindigul.

+1cc to Mr.G.M.Xavier, Advocate, SR.No.53805

W.P(MD) No.3220 of 2019
13.03.2019

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