



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

**WP(MD)No.4305 of 2019 and
WMP(MD) .No.3420 of 2019**

WEB COPY

D. Jeyaraj

... Petitioner

Vs.

1.The General Manager,
Tamil Nadu State Transport Corporation (Thirunelveli) Ltd.,
Nagercoil Region,
Nagercoil, Kanyakumari District.

2.The Assistant Manager(Audit),
Tamil Nadu State Transport Corporation (Thirunelveli) Ltd.,
Nagercoil Region,
Nagercoil, Kanyakumari District.

3.The Branch Manager,
Tamil Nadu State Transport Corporation (Thirunelveli) Ltd.,
Nagercoil Region,
Thingal Nagar Branch,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari calling for the records pertaining to the impugned order passed by the first respondent in No.179/Legal-05/ Disciplinary/ Tha.A.Po.Ka / Thi.Nagar/2019, dated 19.01.2019 and quash the same.

For Petitioner : Mr.N.Sudhagar Nagaraj

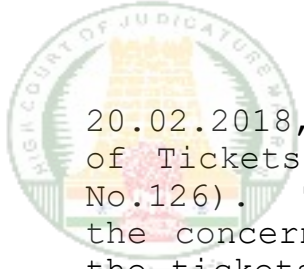
For R1 to R3 : Mr.K.Sathyasingh

ORDER

The Writ Petition is filed for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the first respondent in No.179/ Legal-05 / Disciplinary /Tha.A.Po.Ka / Thi.Nagar/ 2019, dated 19.01.2019 and quash the same.

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. According to the petitioner, he is working as a Superintendent in third respondent Branch from 29.07.2018. Subsequently, he transferred to the post of Depot Cash Keeper in the place of Tmt. C. Annaselvam, who worked as Cashier. While so, on



20.02.2018, the said C.Annselvam stated that one Block of 100 Nos. of Tickets each Rs.12/-, was found missing in Route No.12R(Code No.126). Thereafter, a sum of Rs.1,200/- has been collected from the concerned Conductor of Route No.12R(Code No.126). Thereafter, the tickets were found and there is no loss to the Corporation. In such circumstances, the 1st respondent has passed an impugned order on 19.01.2019. Against the said impugned order 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. Hence, he prayed for a similar relief in this Writ Petition as well.

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 Management 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 credited to the petitioner



along with the petitioner's salary within a period of three months."

6. The learned Standing Counsel appearing for the respondents has not disputed the aforesaid order passed by this Court.

7. Considering the fact that the petitioner herein is the similarly placed person like that of the petitioner therein and having regard to the submissions made by the parties and also following the aforesaid order passed in W.P.No.23395 of 2003, dated 08.01.2013, this writ petition is allowed by setting aside the order impugned herein. If any amount has been recovered from the petitioner, the same shall be reccredited to him along with his salary, as directed by this Court in the aforesaid order. No costs. Consequently, the connected Miscellaneous Petition is closed.

sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The General Manager,
Tamil Nadu State Transport Corporation (Thirunelveli) Ltd.,
Nagercoil Region,
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Tamil Nadu State Transport Corporation (Thirunelveli) Ltd.,
Nagercoil Region,
Thingal Nagar Branch, Kanyakumari District.

+1 CC to Mr.N.SUDHAGAR NAGARAJ, Advocate (SR-56746[F] dated 26/03/2019)

+1 CC to Mr.K.SATHIYA SINGH, Advocate (SR-56827[F] dated 27/03/2019)

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trp

MK (07.05.2019) 4P 6C