



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2019

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**THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR**

W.P. (MD) No.17151 of 2019

and

W.M.P. (MD) Nos.13675 & 13676

P.Murugesan

...Petitioner

Vs.

1.The Managing Director,  
Tamil Nadu State Transport Corporation  
(Madurai) Ltd.,  
Bye pass Road,  
Madurai.

2.The General Manager,  
Tamil Nadu State Transport Corporation  
(Madurai) Ltd.,  
Dindigul Region,  
Bye pass Road,  
Dindigul.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 12.04.2019 in பர்வை: LD8D2/1317 passed by the second respondent, quash the same and further, directing the respondents to remit the recovered amount to the petitioner's savings account.

For Petitioner

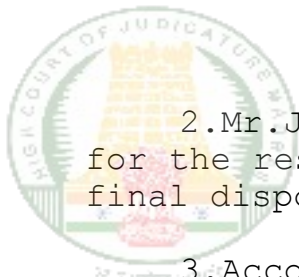
:Mr.G.M.Xavier

For Respondents

:Mr.J.Senthil Kumaraiah  
Standing Counsel

**ORDER**

This Writ Petition has been filed to quash the order dated 12.04.2019, passed in பர்வை: LD8D2/1317 by the second respondent and to direct the respondents to remit the recovered amount to the petitioner's savings account.



2.Mr.J.Senthil Kumaraiah, learned Standing Counsel takes notice for the respondents. By consent, this writ petition is taken up for final disposal at the admission stage itself.

3.According to the petitioner, he is working as Special Grade Conductor in the respondent Corporation and on 20.07.2018, he was assigned duty in the bus bearing Reg.No.TN 57 N 1847 in Route No.026P. When the said bus was halted at Singanallur Bus stand on the same day itself, he also kept the spare unused ticket bundle and his ETM machine put it on his bag and placed the same nearby driver seat, since there was no sufficient space in his cash bag to place the same and also there was no other provision made by the respondent Corporation to keep the ticket bundles safely.

4.Thereafter, he went for filling up the drinking water and after filling up the same, he returned to his bus and found that his bag with unused spare ticket bundle was missing and it was stolen by somebody and in spite of his thorough check and search, he could not find out the bag. Therefore, immediately, he informed about the incident to the Branch Manager and the Branch Manager has also made a complaint before the Singanallur Police Station, Coimbatore on 23.07.2018.

5.Though the petitioner has informed the Management that the ticket books were lost only due to theft, the second respondent by order dated 12.04.2019, ordered for recovery of a sum of Rs.1,06,794/- towards loss of ticket books from his monthly salary in 20 equal installments. Challenging the same, the petitioner has preferred an appeal before the first respondent on 25.06.2019, requesting him not to recover the said amount from his monthly salary and the same is pending till date. Aggrieved by the same, the present writ petition has been filed for the relief stated supra.

6.In support of his contention, the learned counsel for the petitioner relied on the judgment passed by this Court in W.P.(MD) No.3838 of 2011 dated 04.01.2019, wherein, this Court has held as follows:

11. Therefore, in the light of Clause 17 of 12(3) Settlement and the facts and circumstances of the case that he made a complaint to Junior Engineer of the respondent Corporation at Tiruppur and lodged a police complaint at Tiruppur, this Court is of the view that the petitioner took diligent steps to inform the transport Corporation about the loss of tickets. Hence, no negligence can be attributed against the petitioner herein. Therefore, in the light of the above facts and decision cited supra, the impugned order passed by the second respondent dated 02.12.2010 is set aside. The Writ Petition is allowed. The second respondent



is directed to refund the amount already recovered from the petitioner, within a period of four weeks from the date of receipt of a copy of this order. No costs.

7. Heard the learned Standing Counsel appearing for the respondents.

8. In the case on hand, the petitioner has missed his bag with unused spare ticket bundle and his ETM machine on 20.07.2018, but the complaint has been given before the respondent police on 23.07.2018. In the earlier case cited by the learned counsel for the petitioner, the petitioner has given sufficient explanation for the delay in preferring the complaint. But in this case, for the delay in preferring the said complaint, no explanation has been given by the petitioner in the affidavit filed in support of this writ petition. Therefore, in the absence of explaining the delay in preferring the complaint, this Court cannot entertain this writ petition at this stage and the disputed fact shall be decided only in the appeal.

9. In view of the foregoing discussions and considering the facts and circumstances of the case, this writ petition is dismissed. However, the first respondent is directed to consider and pass appropriate orders on the petitioner's appeal dated 25.06.2019, on merits and in accordance with law, as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar

+1 CC to M/s.G.M.XAVIER, Advocate ( SR-79750[F] dated 05/08/2019 )

+1 CC to M/s.J.SENTHIL KUMARAI AH, Advocate ( SR-80072[F] dated 06/08/2019 )

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05.08.2019

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