



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) .No.7623 of 2020

and

W.M.P. (MD) No.7114 of 2020

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S.Selvakumar

.. Petitioner

Vs.

1) The Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Rep. by its Managing Director,
Kumbakonam.

2) The General Manager,
The Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Pudukottai Region,
Pudukottai.

3) The Branch Manager,
The Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Aranthangi Brnach,
Aranthangi.

.. Respondents

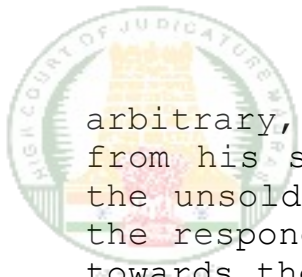
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration, declaring the action of the respondents in imposing "ticket book recovery" of Rs.80,448/- on the petitioner towards face value of unused/unsold missing tickets as illegal and arbitrary and forbear the respondents from making any recovery from his salary to the tune of Rs.80,448/- towards face value of the unsold missing tickets and to direct the respondents to refund the amount recovered from the petitioner towards the above recovery.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.P.Balasubramanian,
Standing Counsel

O R D E R

The prayer sought for in this Writ Petition is for a Writ of Declaration, declaring the action of the respondents in imposing "ticket book recovery" of Rs.80,448/- on the petitioner towards face value of unused/unsold missing tickets as illegal and



arbitrary, and forbear the respondents from making any recovery from his salary to the tune of Rs.80,448/- towards face value of the unsold missing tickets and further seeking for a direction to the respondents to refund the amount recovered from the petitioner towards the above recovery.

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2. Heard Mr.A.Rahul, learned counsel appearing for the petitioner and Mr.P.Balasubramanian, learned standing counsel appearing for the respondent Transport Corporation.

3. The short facts leading to the filing of the writ petition is that, the petitioner has been working as a Conductor at the respondent Transport Corporation. While so, on 24.02.2020, his ticket bundle worth about Rs.80,448/- was found missing in the bus. In this regard, it is claimed by the petitioner that, immediately a police complaint has been given to Town Police Station, Pudukottai District, where the police investigation is pending.

4. In this regard, admittedly, there has been no disciplinary proceedings initiated against the petitioner and no enquiry has been conducted. While so, without resorting the method of ascertaining who was responsible for such loss of the unused ticket books worth Rs.80,448/-, the respondent Transport Corporation had started straight-away recovery of the said amount from the monthly salary of the petitioner and such a reduction has already been started effectively. Therefore, the petitioner has come before this Court with the aforesaid prayer.

5. I have heard Mr.A.Rahul, learned counsel appearing for the petitioner, who would submit that, as per 12(3) Settlement reached between the respondent Corporation and its employees, this is one of the issue where, any unused tickets found missing from a Conductor's possession and if a police complaint is made in this regard, either the police can investigate and file a final report or disciplinary proceedings can be initiated, where enquiry can be conducted and after finding out whether the concerned Conductor was the responsible person for such loss, then only further action can be taken. Without resorting to such proceedings, straight-away recovery cannot be made from the Conductor and in this regard, a number of writ petitions have already been decided by this Court, where the learned counsel for the petitioner relied upon the recent decision dated 22.01.2020 made in W.P.(MD) No.34325 of 2018 in the case of ***G.Jayamoorthy vs. the General Manager, Tamil Nadu State Transport Corporation & another*** and the learned counsel for the petitioner, in the said judgment, has relied upon the following passages which are usefully extracted here under:

"It is clear from the above judgment that the

<https://hcservices.ecourts.gov.in/hcservices/> respondent Corporation cannot resort to recovery from the



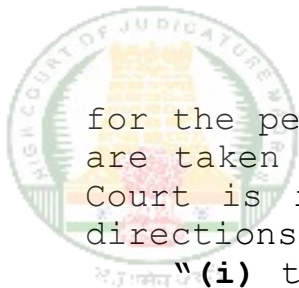
Conductor for the loss of unused tickets if the same had occurred due to accident, theft or robbery. In the present case, the respondents are claiming that the loss of unused tickets has occurred due to the negligence of the petitioner. This issue can be resolved only after proper enquiry is conducted by the first respondent. However, in the present case it is seen that the first respondent has directly proceeded to pass the impugned order dated 27.08.2018 and has valued the unused tickets and directed to recovery of a sum of Rs.2,27,990/- from the petitioner. This order is liable to be interfered only on the ground that it was passed without affording any opportunity to the petitioner and it has resulted in civil consequences to the petitioner. This order could have been passed only after affording opportunity to the petitioner. The impugned order passed by the first respondent dated 27.08.2018 is clearly in violation of principles of natural justice.

12. In view of the above discussion, the impugned order passed by the first respondent on 27.08.2018 is liable to be interfered with and accordingly the same is quashed. If at all, the first respondent wants to proceed further against the petitioner for the loss of tickets, the same can be done only by giving a charge memo and affording an opportunity to the petitioner and after ensuring that such recovery does not fall within a settlement arrived between the Union and Transport Corporation."

6. By relying upon the said decision, the learned counsel would submit that the present action on the part of the respondent Corporation for recovering the amount without conducting an enquiry and without affording an opportunity of being heard to the petitioner is bad in law and therefore, interference of this Court is necessary and in this regard, it is submitted by the learned counsel for the petitioner that a detailed representation has also been made by the learned counsel for the petitioner on 19.06.2020 to the respondent Corporation.

7. Heard Mr.P.Balasubramanian, learned standing counsel appearing for the respondents, who would submit that, the said representation dated 19.06.2020 would be considered and also whether any disciplinary proceedings had been initiated or not would be verified and if any initiated, proper procedure would be adopted by the respondent Corporation before resorting to the recovery proceedings against the petitioner.

8. The said submissions made by the learned counsel appearing



for the petitioner as well as the respondent Transport Corporation are taken into account. Considering the nature of this case, this Court is inclined to dispose of the petition with the following directions:-

"(i) that the respondents shall be at liberty to proceed against the petitioner to initiate disciplinary proceedings, by way of conducting an enquiry and to find out the truth, as to whether the petitioner was responsible for the said loss of the unused ticket books;

(ii) In this regard, a clear opportunity must be given to the petitioner to put forth his position before the Enquiry Officer;

(iii) Till such enquiry is completed and final decision is made, no recovery shall be made from the petitioner; and

(iv) It is also made clear that the recovery already made in respect of three months from the petitioner's salary shall be paid in three equal installments to the petitioner through the forthcoming next three months salary."

9. With these directions and observations, this writ petition stands ordered accordingly. However, there shall be no order as to costs. Consequently, connected W.M.P.(MD) No.7114 of 2020 is closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar (CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.



To:

1) The Managing Director,
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd., Kumbakonam.

2) The General Manager,
The Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Pudukottai Region, Pudukottai.

3) The Branch Manager,
The Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Aranthangi Branch, Aranthangi.

Order made in
W.P. (MD) .No.7623 of 2020

Dated:
20.07.2020

KM (07.08.2020) 5P 4C