

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2021

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

WP NO.25430 OF 2008
AND MP NO.2 OF 2008

P.Manisekaran

... Petitioner

Vs.

The Managing Director
Tamilnadu State Transport Corporation
(Villupuram Limit)
No.137, Salamedu, Valugareddy Post,
Villupuram – 605 602.

... Respondent

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned order bearing No.K.No.4240/VTP-5/VP/2004 dated 21.02.2008 and quash the same.

For Petitioner : Mr.V.Manisekaran
For Respondent : Ms.Rita Chandrasekar
for M/s.Jayesh B. Dolia

ORDER

The petitioner while working as a Conductor under the respondent has lost bundle of tickets kept in the dash board, for issuing to the passengers. The value of those lost tickets was Rs.1,12,783.50. After finding that those tickets were lost, he had given a police complaint and also submitted a letter to the Management to recover the value of the tickets @ Rs.1,000/- per month from his salary. He also deposited a sum of Rs.10,000/- at the time of submitting the letter. Thereafter, it appears that as per the Settlement between the Management and the Union, no recovery will be made against the tickets which were stolen from the bus and therefore, he filed the writ petition against the recovery as well as for refund of the money deposited by him.

2.The learned counsel for the respondent Corporation would vehemently contend that it is the petitioner who volunteered to deposit a sum of Rs.10,000/- and also offered for recovery of that money @ Rs.1,000/- per month from his salary. Having consented for the recovery, he cannot now turn around and say that it is not recoverable in view of the Settlement.

According to the learned counsel, the word “kollai” does not mean theft. It shall be used in a different connotation and therefore, the claim of the petitioner under the settlement is not sustainable and the settlement does not apply to his case. Therefore, according to her, the consent order need not be interfered with.

3. Record of proceedings shows that this Court has granted interim stay of the order and it was made absolute on 11.09.2009 setting out reasons for the same. The order in M.P.No.2 of 2008 in the above writ petition reads as under:

“The petitioner, has challenged an order dated 21.02.2008 of the respondent by which he has been directed to pay a sum of Rs.1,12,783.50p being the value of the bunch of tickets lost during his trip, for which he has stated to have lodged a complaint on 03.05.2004 with Pallapatti Police Station, Salem.

2. According to the petitioner, he was compelled to

accept his liability, though there is a clause No.29 under Section 12(3) Settlement of the Industrial Disputes Act, 1947, to the effect that recovery need not be made in the case of Riot, accident, theft or if the ticket books are lost. It is the further contention of the petitioner that though the said clause has been retained in the latest settlement dated 31.03.2005 with the respondent management, without framing any charges and giving any opportunity to explain, the respondent has passed the impugned order which is in violation of principles of natural justice.

3.Though an interim injunction has been granted on 23.10.2008, and been extended, the respondent has not chosen to file counter affidavit nor filed any application for vacation of orders. In these circumstances, in view of the specific clause stated supra under Section 12(3) settlement, the interim order granted is made absolute, reserving the right to the respondent management to file an application for vacating the interim orders.”

4.I have considered the submissions made by both sides.

5. Even assuming that the case of the petitioner will not be covered under the 12(3) Settlement entered between the parties, what is to be recovered is the cost of printing of the tickets. It is not the case that the petitioner utilized the tickets and registered a false complaint. It is also pertinent to note that the bundles of tickets which were supplied to a Conductor is usually kept in the dash board except which is currently used during the travel. In the instant case, the extra ticket books were kept in the dash board which were found missing and a police complaint was registered. In that event, if the Management come across usage of such tickets in some other bus, they could very well initiate disciplinary proceedings by framing the charges. It is also relevant to note that these tickets cannot be used in any other bus other than the respondent Transport Corporation. Therefore, it is common sense that these tickets cannot be used by any other transport operator. It is not the case of the management that it was utilized and the petitioner has misappropriated the amount.

6. In such circumstances, even assuming that the word “kollai”

will not include the case of theft, the respondent Corporation is entitled to recover only the printing cost of the tickets and not the entire value of the tickets. In that view of the matter, even the employee concedes to pay the entire value, it is not fair on the part of the respondent to exploit the situation and recover the value of the tickets.

7. Therefore, this Court is of the considered opinion that the respondent is entitled to adjust the printing cost of the tickets from the deposit made by the petitioner and shall not proceed with the recovery as consented by the petitioner. Accordingly, the impugned order in K.No.4240/VTP-5/VP/2004 dated 21.02.2008 by the respondent is set aside.

8. The writ petition is ordered. No costs. Consequently, connected miscellaneous petition is closed.

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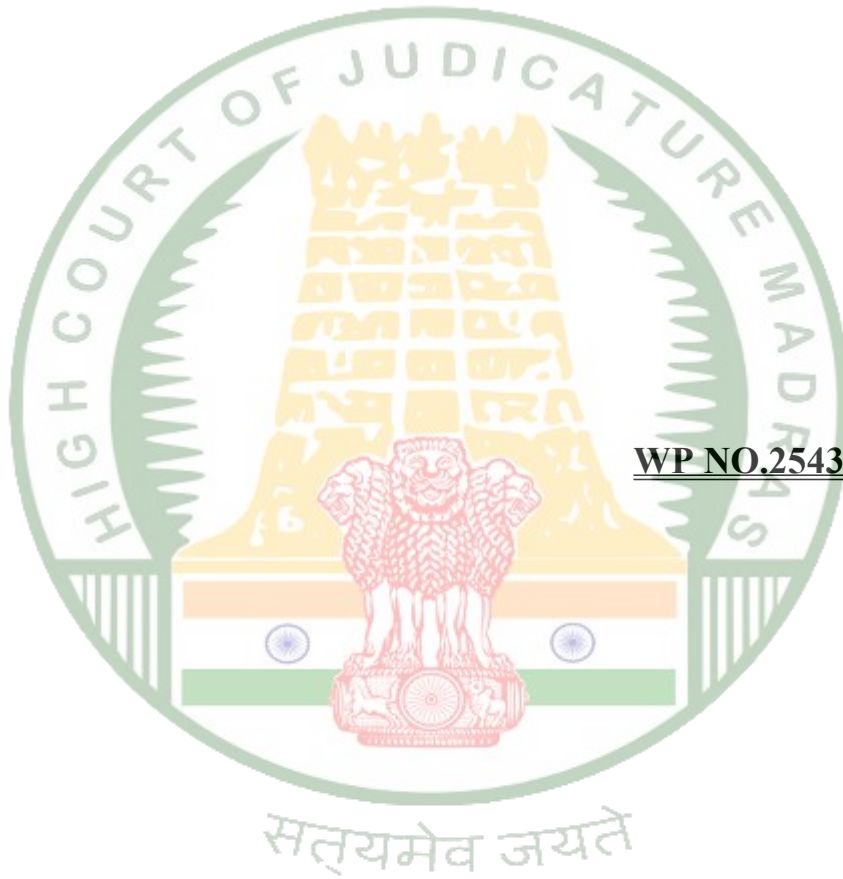
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M.GOVINDARAJ, J.

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