



WEB COPY



W.P.No.17494 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.17494 of 2018
and
W.M.P.No.20771 of 2018

N.Boopathy

...Petitioner

-Vs-

1.The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
Salem Division,
Salem - 636 007.

2.The General Manager,
Tamil Nadu State Transport
Corporation Ltd.,
Salem Division,
Salem - 636 007.

3.The Branch Manager,
Tamil Nadu State Transport
Corporation Ltd.,
Sankari Branch,
Sankari, Salem District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying for the issuance of a Writ of Mandamus forbearing the second



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respondent from deducting the amount from the petitioner's salary on the basis of order dated 04.04.2018 passed by the second respondent in Memo No.562-21704-T5.TNSTC-2016 till disposal of petitioner appeal dated 07.05.2018 on the file of first respondent, as well as by considering petitioner representation dated 02.05.2018.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondents : No Appearance

ORDER

The Writ of Mandamus has been filed to forbear the second respondent from deducting the amount from the petitioner's salary on the basis of the order dated 04.04.2018 passed by the second respondent, till the disposal of the petitioner's appeal dated 07.05.2018 on the file of first respondent, as well as by considering the representation made by the petitioner dated 02.05.2018.

2. The petitioner is working as a Conductor in the respondent Transport Corporation. While he was working as a Conductor, on 16.08.2016, the petitioner kept the ticket books safely in the dashboard of the bus. On his return, the petitioner found that the ticket books were



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missing and immediately, he filed a police complaint, in which, the investigation is pending.

3. The learned counsel for the petitioner made a submission that as per the terms and conditions of 12(3) Settlement, the petitioner is not liable to pay the loss, on account of the stolen ticket books. In this regard, the learned counsel reiterated that the respondents are bound to wait till such time the investigation is completed.

4. Admittedly, the service conditions of a Conductor in the Transport Corporation are governed under 12(3) Settlement under the Industrial Disputes Act. Thus, the petitioner has to exhaust the remedy contemplated under the Industrial Disputes Act. When an alternate remedy, which is efficacious, is made available under the statute, High Courts cannot entertain a writ proceedings filed under Article 226 of the Constitution of India. The Labour Court is the judicial forum and adjudication with reference to the disputed issues are to be done by the parties. Contrarily, the High Court cannot conduct a roving enquiry with reference to the disputed facts in the absence of examining the evidences and documents in original. If any order has been passed merely based on the affidavit filed by the workman, the same would cause prejudice to



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either of the parties and wherever the disputed issues are raised, then an adjudication is imminent.

5. Thus, the petitioner has to approach the competent Labour Court for adjudication of disputed issues with reference to settlement under the Industrial Disputes Act. In the event of any such approach, the Labour Court concerned shall take into consideration the period during which the writ petition was pending before the High Court for the purpose of condoning the delay and adjudicate the issues on merits and in accordance with law.

6. With this liberty, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

15.11.2022

Index:Yes
Internet:Yes
Speaking order
hvk



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S.M.SUBRAMANIAM, J.

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