BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.(MD)No.23266 of 2016

and

W.M.P.(MD)Nos.16706 and 16707 of 2016

K.Meganathan ... Petitioner

-Vs-

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

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

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the orders in Ref.TNSTC/T11/Ser/224/2015, dated 30.09.2015 of the 2nd respondent, quash the same and consequently, to direct the 2nd respondent to return the amount already deducted from the wages of the petitioner from the month of October, 2015 to the petitioner with 18% interest per annum, award cost.

For Petitioner : Ms.D.Durga,
For Mr.G.M.Xavier

For Respondents : Mr.A.Balaji,
For Mr.D.Sivaraman, Standing Counsel

ORDER

The order of the second respondent dated 30.09.2015 is under challenge in this Writ Petition and a direction is also sought for to return the amount already deducted from the wages of the petitioner from the month of October, 2015 to the petitioner with 18% interest per annum.

2.The learned counsel appearing for the petitioner submitted that the petitioner was working as a permanent Conductor with the first respondent Corporation from 24.07.2009 and was rendering service without any blemish. While so, he was at a trip on 07.07.2015 from Nagapattinam, he kept the ticket books in a separate bag along with his personal things and placed in front of the wind-glass of the bus in the sight of the Driver. However, when the bus reached its destination at 10.00 am., at Pudhuchathiram, it was found that the ticket book along with his personal belongings found missing. Therefore, a criminal case was given at Pudhuchathiram Police Station and Receipt No.36/2015, dated 07.07.2015 was issued. However, the second respondent, by the impugned order dated 30.09.2015, ordered to recover a sum of Rs.48,500/- (Rupees Forty Eight Thousand and Five Hundred Only) for the alleged loss caused to the Corporation due to missing of ticket book. Aggrieved by the same, the present Writ Petition is filed.

3.The learned counsel for the petitioner further submitted that this issue was covered by an order dated 03.04.2019 passed by this Court in W.P.(MD)Nos.14681 of 2015 etc., batch,.

4.It is seen from the order dated 03.04.2019 that the issue had already been decided on the basis of Clause 29 Settlement reached in the year 1995. The relevant portion of the order is extracted hereunder:-

> *"3.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 recredited to the petitioner along with the petitioner's salary within a period of three months."

5.The learned Standing Counsel appearing for the respondents has objected the prayer, however, has not disputed the said 1995 Settlement.

6.Considering the facts and circumstances of the case, the said 1995 settlement and the decision already taken on the similar issue, this Court is of the considered opinion that the said 1995 settlement is squarely applicable to the present case also, since in this case also there is a police complaint given with regard to the missing of ticket books. Therefore, the petitioner is entitled for the relief prayed in the Writ Petition.

7.In such view of the matter, this Writ Petition is allowed and the order of the 2nd respondent dated 30.09.2015 is quashed. The respondents are directed to repay the amount to the petitioner already recovered from him, within a period of three (3) months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Myr

TO:

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

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

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-25219[F] dated 10/06/2022)

+1 CC to M/s.G.M. XAVIER, Advocate (SR-25364[F] dated 13/06/2022)

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