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W.P.No.25000 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.25000 of 2013 and
MP.No.1 of 2013

A.Prabakaran

... Petitioner

Vs.

The General Manager,
Tamilnadu State Transport Corporation Ltd.,
No.37 Mettuppalayam Road,
Coimbatore District 641 043

... Respondent

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Declaration declaring the act of the respondent in his proceeding No.1/G11/5546/TNSTC/10 dated 24.11.2010 by recovering the lost ticket book value Rs.36,103/- from the monthly salary of the petitioner as illegal and ultravires and consequently direct the respondents to refund the amount recovered towards the lost ticket book value from the petitioner's salary within a time frame.

For Petitioner : Mr.R.Y.George Williams



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For Respondent : Mr.A.Sundaravadanan

ORDER

The petitioner has approached this Court seeking the following relief:

"to issue Writ of Declaration declaring the act of the respondent in his proceeding No.1/G11/5546/TNSTC/10 dated 24.11.2010 by recovering the lost ticket book value Rs.36,103/- from the monthly salary of the petitioner as illegal and ultravires and consequently direct the respondent to refund the amount recovered towards the lost ticket book value from the petitioner's salary within a time frame."

2. The case of the petitioner is that he was an employee of the respondent Corporation joined as a Conductor in the year 1990. On 17.10.2010, the petitioner was assigned duty in bus bearing Registration No.TN 33 N 2386 Route from Kovi to Thrichy. The said bus arrived at Coimbatore Singanallur. The petitioner went inside the bus stand office and made necessary entry before Time Keeper and got back into the bus to take back the spare passenger ticket books. But the bag was found



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missing. Since the petitioner could not trace the same, he informed the same to management and to police by lodging complaint, which was registered in FIR.No.1329 of 2012 dated 19.10.2010.

3. In spite of the above position, the management issued a charge memo. Thereafter, he was served with proceedings dated 24.11.2010 issued by General Manager stating that the petitioner had lost ticket books worth of Rs.36,103/- and the said amount will be deducted in his salary in 36 instalments of Rs.1,000/- each.

4. The learned counsel appearing for the petitioner would submit that the issue is directly covered by Clause 17 of 12(3) settlement dated 29.08.2005 in and by which the Corporation had accepted and agreed that no recovery will be made from the conductors towards the value of those ticket books which were lost. According to the learned counsel for the petitioner, the agreement is still in force and the same was applied wherever there is a loss of ticket bundles, for which no recovery action was initiated. 12(3) settlement between the workers and the Corporation



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in respect of the said issue has not been disputed by the learned counsel for the Corporation.

5. Learned counsel appearing for the petitioner would further draw the attention of this Court that in similar circumstances, this Court has time and again held that no recovery could be made from the conductors, if ticket bundles were lost. He would draw the attention of this Court to the order passed by the learned single Judge dated 23.06.2011 in W.P.No.9686 of 2011. The learned Judge of this Court, after following the Division Bench decision, directed the return of the recovery amount from the conductor concerned. The operative portion of the order is extracted below:

"4. In the light of the said categorical pronouncement made by the Division Bench particularly in paragraphs 4 and 5 holding that the said demand is contrary to Clause 29 of the Settlement and the fact that the similar settlement is now in force, the impugned order is set aside and the writ petition is allowed. The amount already recovered to the tune of Rs.5,693/- is



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directed to be returned to the petitioner within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed."

6. The said decision of the learned single Judge has been confirmed in W.A.No.1122 of 2012 dated 18.07.2012. Learned counsel would also draw the attention of this Court to yet another decision of this Court in "**Management of Rani Mangammal Transport Corporation Ltd., Vs. M.Palanisamy ((2008) 1 MLJ 224)**", wherein a Division Bench of this Court has clearly held that no amount can be recovered from the bus conductor when there was loss of bus ticket books not due to any negligence on the part of the conductor. These decisions squarely cover the case in favour of the petitioner.

7. The learned counsel appearing for the respondent would vehemently oppose the grant of any relief to the petitioner on the ground that unless the loss is compensated by the conductor concerned, there would not be any responsibility on the part of any conductor for keeping



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ticket book in safe custody. However, he would not dispute the settlement arrived at between the workers and the management in this regard. He would also have no quarrel with the legal proposition laid down by this Court both by the learned single Judge and by the Division Benches as relied on by the learned counsel for the petitioner.

8. In view of the admitted position that the issue is directly covered by the aforesaid decisions and also in view of the binding agreement between the workmen and the management, this Court has no hesitation in allowing the writ petition. The impugned proceeding No.1/G11/5546/TNSTC/10 dated 24.11.2010 is therefore set aside. The respondent is also directed to treat the period of the petitioner's non-employment as duty for the aforesaid reasons and pay the admissible wages for the said period. The respondent is directed to pass orders in compliance with these directions within a period of four weeks from the date of receipt of a copy of this order.



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9. The writ petition stands allowed on the above terms. No costs.

Consequently, connected miscellaneous petition is closed.

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Internet: Yes

Index: Yes/No

Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

- 1.The General Manager,
Tamilnadu State Transport Corporation Ltd.,
No.37 Mettuppalayam Road,
Coimbatore District 641 043
2. The Public Prosecutor,
High Court, Madras.

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