**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

ORDERS RESERVED ON : 15.02.2024

ORDERS PRONOUNCED ON : 26.04.2024

CORAM

**THE HONOURABLE MR.JUSTICE BATTU DEVANAND**

W.P.No. 11425 of 2018
and
W.M.P.No. 13331 of 2018

M.V. Raja ... Petitioner

Vs.

1.Tamilnadu State Transport Corporation
(Villupuram) Ltd.,
rep., by its Managing Director,
3/137, Salamadu, Villupuram.

2.The General Manager,
Tamilnadu State Transport Corporation
(Villupuram) Ltd.,
Thiruvallur Region,
Thiruvallur. ... Respondent

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 06.01.2018 in Ku.No.051/7711/L21/TNSTC (Villu) Thiruva/2017 passed by the second respondent, quash the same and consequently, direct the respondents to refund the amounts already recovered from the petitioner's monthly salary with interest at the rate of 12% per annum, award costs and thus render justice.

For Petitioner : Mr. R. Krishnaswamy
For Respondents : Ms. S. Pavithra, Standing Counsel

**ORDER**

The prayer in the writ petition is to quash the order dated 06.01.2018, demanding a sum of Rs.61,038/- being the amount calculated for the loss of printed tickets.

2. Learned counsel for the petitioner submitted that the demand of the value of the ticket, which was lost, is contrary to the settlement entered into between the Unions and the Management and similar settlements are still in force. The learned counsel also submitted that the very same issue has been considered by the Division Bench of this Court in ***"Management of Rani Mangammal Transport Corporation Ltd., Vs. M.Palanisamy ((2008) 1 MLJ 224)"*** and in paragraphs 4 and 5, the same was answered in favour of the workmen. Paragraphs 4 and 5 of the said judgment reads as follows: -

> *"4. Having heard the learned counsel we find force in submissions of the learned counsel for the respondent. From the respective submissions made and on a perusal of the affidavits filed on behalf of the respondent as well as the counter affidavit filed by the appellant in the writ petition, we find that the respondent cannot be held to have acted in a negligent manner as far as the loss of unused ticket books entrusted with him while he was assigned the duty on 26.04.1992. According to the respondent he reported about the loss of the ticket books through wireless to the higher authorities. There was nothing to suggest that no such message was ever sent by the*

*respondent. In fact, on his way back in the next trip, he was issued with two new ticket books at Ottanchatram Depot. If really there were no intimation authorities at the Ottanchatram Depot would not have readily come forward to issue the two new ticket books to the respondent. The fact that the respondent made police complaint immediately after the conclusion of duty hours on 26.04.1992 also impresses us to hold that the respondent took all diligent steps to duly inform the appellant about the loss of the tickets. In this context, while we peruse the proceedings referred to by the learned counsel for the appellant namely, the proceedings dated 26.06.1991 and 5.8.1991, we find that the cumulative effect of the proceedings were to ensure that necessary enquiry should be done in case where loss of unused ticket books is reported, either to defraud the appellant Corporation or such reporting discloses that the concerned conductor was diligent in performance of his duty and the loss of ticket books were beyond his control and at the instance of some other extraneous circumstances or by other unscrupulous persons. 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.*

*5. Viewing in that respect, we are in full agreement with the conclusion of the learned single Judge as has been set out in paragraphs 8 and 9 of the order impugned in this appeal. For all the above stated reasons, we are convinced that the order impugned in this appeal does not call for interference. We therefore do not find any merit in this appeal. The appeal fails and the same is dismissed."*

3. Learned counsel appearing for the petitioner would submit that the issue is directly covered by Clause 17 of 12(3) settlement dated 06.02.2008 wherein the Corporation has 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 in respect of the said issue has not been disputed by the learned counsel for the Corporation.

4. 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 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."*

The said decision of the learned single Judge has been confirmed in W.A.No.1122 of 2012 dated 18.07.2012.

5. Learned counsel appearing for the respondents 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 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.

6. In view of the admitted position that the issue is directly covered by the aforesaid decision and also in view of the binding agreement between the workmen and the management, this Court has no hesitation in allowing the writ petition.

7. Accordingly, the Writ Petition is allowed with the following direction: -

i. The impugned order dated 06.01.2018 in Ku.No.051/7711/L21/TNSTC (Villu) Thiruva/2017 is hereby set aside.

ii. The respondents are directed to refund the amount so recovered, if any, from the petitioner within a period of four weeks from the date of receipt of this order.

8. Consequently, connected miscellaneous petition is closed. No costs.

**26.04.2024**

Index :Yes/No
Neutral Citation :Yes/No
AT

To
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Tamilnadu State Transport Corporation
(Villupuram) Ltd., 3/137, Salamadu, Villupuram.

2.The General Manager,
Tamilnadu State Transport Corporation
(Villupuram) Ltd., Thiruvallur Region,
Thiruvallur.

**BATTU DEVANAND, J.**

AT

Order made in

W.P.No. 11425 of 2018 and
W.M.P.No. 13331 of 2018

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