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W.P.No.26198



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.26198 of 2021

and

W.M.P.No.27650 of 2021

A.Palanichamy

... Petitioner

Vs.

1. The Management of State Express Transport Corporation (Tamil Nadu) Ltd.,
Rep. by its Managing Director,
Pallavan Salai,
Chennai – 600 002.

2. The General Manager,
The State Express Transport Corporation (Tamil Nadu) Ltd.,
Pallavan Salai,
Chennai – 600 002.

3. The Branch Manager,
The State Express Transport Corporation (Tamil Nadu) Ltd.,
Madurai Branch, Madurai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring the action of the respondents in imposing 'ticket book recovery' of Rs.1,13,590/- on the petitioner towards the face value of unused/ unsold missing tickets as illegal and arbitrary and consequently



direct the respondents to pay wages to him with effect from 30.09.2021 to 10.10.2021 by treating the said period as duty and to direct the respondents to refund the amount being recovered from his salary from the month of October 2021 for the loss of ticket book and pass such further or other orders as this Hon'ble Court may deem fit.

For Petitioner : M/s.S.Sindhumathy
for Mr.V.Ajoy Khose

For Respondents : Mr.K.Kathiresan

ORDER

The petitioner herein was initially appointed as 'Conductor' on 01.07.1991 and has been continuing in service for more than 30 years. While so, it was on 27.09.2021, while discharging his duties as a 'Conductor' in Route No.137 between Madurai and Chennai, the petitioner lost the unused tickets and he made a complaint with CMBT Police Station on 28.09.2021 at 05:30 a.m.,

2. According to petitioner, while he was taking rest during the intervening night of 27.09.2021 and 28.09.2021 at the Crew Rest Room situated at



Platform No.4, he lost the unused tickets. Since the said unused tickets could not be traced, he informed the same to his higher officials on 28.09.2021. It is basing upon the said lost tickets, the respondents issued the impugned order, proposing to recover an amount of Rs.1,13,590/-, being the value of unused tickets. It is aggrieved by the said order dated 30.09.2021, the petitioner filed the present Writ Petition.

3. The learned counsel for the petitioner contended that there was Settlement dated 06.02.2008 between the respondent Corporation and the Union under Section 12(3) of the Industrial Disputes Act, 1947, wherein the Corporation has agreed not to recover the value of unused tickets, which were lost. But, in violation of the said Settlement dated 06.02.2008, the respondent Corporation issued the impugned recovery orders. He also further contended that this Court has considered similar aspects in a number of cases and set aside the similar orders passed by the respondent Corporation, ordering for recovery of the value of unused tickets.

4. Though this Writ Petition is of the year 2021, no counter-affidavit is filed by the respondents. However, this Court having considered the request



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made on behalf of the respondents on 04.06.2024 granted further time, while posting the matter under the caption "For Orders". In spite of the same, though the matter was listed again on 14.06.2024, yet another request was made for adjournment. This Court, on considering the request, directed the matter to be listed today for final disposal. Today also, no counter-affidavit is filed. However, a request is made for further adjournment. This Court declined to adjourn the matter any further.

5. This Court has perused various orders passed by this Court in W.P (MD) No.647 of 2013, W.P (MD) No.794 of 2017, W.P.No.11425 of 2018 and the decision rendered in the case of ***“Sri.D.Hariparanthaman -vs- Sri.S.Jayaraman”*** reported in **2002 (4) LLN 1129**.

6. From the perusal of the above orders passed by this Court, it is evident that the learned Judges have taken note of Settlement dated 06.02.2008 entered into between the respondent Corporation and the Union under Section 12(3) of the Industrial Disputes Act, 1947, in specific, Clause 17 of the said Settlement dated 06.02.2008, wherein the respondent Corporation has agreed not to recover the value of lost unused tickets, unless missing of such tickets is due to



negligent act of the 'Conductor' in question.

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7. From perusal of the impugned order dated 30.09.2019 passed by the respondents, there is no allegation of any negligence on the part of the petitioner. However, without there being any allegation of negligence on the part of petitioner, the respondent Corporation issued the impugned order in violation of the Settlement arrived at between the respondent Corporation and the Union under Section 12(3) of the Industrial Disputes Act, 1947. For this reason alone, the impugned order is liable to be set aside.

8. Further, from the perusal of the impugned order, it is noticed that an amount of Rs.1,13,590/- is sought to be recovered from the salary of the petitioner, but no opportunity of personal hearing was afforded to the petitioner before passing such an order, adversely affecting the petitioner. For this reason also, the impugned order is liable to be set aside.

9. In the light of the series of orders passed by this Court under similar circumstances as noted above, this Court is of the considered view that the impugned order ordering for recovery of Rs.1,13,590/- cannot be sustained



under law and the same is accordingly set aside and the Writ Petition is allowed. Insofar as the claim of the petitioner for payment of wages for the period commencing from 30.09.2021 to 10.12.2021 are concerned, the petitioner is permitted to make a representation before the respondents, requesting for regularizing the said period and in case if any such representation is submitted by the petitioner, the respondents shall consider the same and pass appropriate orders in accordance with law. It is further made clear that if any amounts are recovered from the petitioner pursuant to the impugned proceedings, the same shall be refunded to the petitioner within a period of three weeks from the date of receipt of a copy of this order.

25.06.2024

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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The Management of State Express Transport Corporation (Tamil Nadu) Ltd.,
Pallavan Salai, Chennai – 600 002.
2. The General Manager,
The State Express Transport Corporation (Tamil Nadu) Ltd.,
Pallavan Salai, Chennai – 600 002.



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3. The Branch Manager,
The State Express Transport Corporation (Tamil Nadu) Ltd.,
Madurai Branch, Madurai.

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MUMMINENI SUDHEER KUMAR, J.

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