



W.P.No.10355of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

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THE HON'BLE MRS. JUSTICE N.MALA

W.P.No.10355 of 2017

and

W.M.P.No.11274 of 2017

G.Natarajan,
Conductor (CR 4892),
Tamil Nadu State Transport Corporation
(Salem) Limited,
Head Quarters,
Salem, Salem District.

... Petitioner

Vs.

1. The Managing Director,
Tamil Nadu State Transport Corporation
(Salem Limited),
Head Quarters,
Salem, Salem District.

2. The General Manager,
Tamil Nadu State Transport Corporation
(Salem) Limited,
Head Quarters,
Salem, Salem District.

... Respondents



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PRAYER: The Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the entire records which culminated in the order bearing reference Kurippanai No.562-27856-D6-tha.Aa.Pooka-2016 dated 08.02.2017 on the file of the second respondent, quash the same and consequently direct the respondents to refund the amount of Rs.4,432/- deducted from the salary of the petitioner during February 2017 and any other amount that may recovered from the salary of the petitioner in future.

For Petitioner : Mr.P.Ganesan
For Respondents : Mr.M.Aswin

ORDER

The Writ Petition has been filed seeking to issue a Writ of Certiorarified Mandamus to call for the entire records, which culminated in the order bearing reference Kurippanai No.562-27856-D6-tha.Aa.Pooka-2016 dated 08.2.2017 on the file of the second respondent, quash the same and consequently direct the respondents to refund the amount of Rs.4,432/- deducted from the salary of the petitioner during February 2017 and any other amount that may be recovered from the salary of the petitioner in future.



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2. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondent corporation.

3. The case of the petitioner is as follows :

(i) The petitioner joined in the respondent corporation on 24.2.2015 as a conductor and he was allocated duty as conductor in the bus bearing Registration No.TN-30 N 0882 from Chidambaram to Salem. On 28.10.2016, when the bus reached Salem New Bus stand, he kept the unsold tickets of various denominations in the dash board in the front side of the bus. When the petitioner returned from the time keepers room, he found that the unsold tickets were stolen. Thereafter, the petitioner filed a complaint on 30.10.2016 to the Inspector of Police, Pallapatti Police Station, Salem regarding the theft of unsold tickets.

(ii) On 21.11.2016, a charge memo was issued to the petitioner by the second respondent with regard to the missing unsold tickets. Though the petitioner gave an explanation to the charge memo on 20.12.2016, the second respondent passed the impugned order dated 08.2.2017 for



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recovery of Rs.1,06,364/- towards the value of unsold tickets from the petitioner's monthly salary in 25 equal instalments. Aggrieved by same, the petitioner has preferred this writ petition.

3. The respondents filed a counter stating that due to negligence of the petitioner, the ticket bundle worth about Rs.1,04,844/- was lost. Hence, the charge memo was issued to the petitioner on 21.11.2016 seeking his explanation to the charges. Since the explanation offered by the petitioner was unsatisfactory, the impugned order was passed on 08.2.2017. The respondents submitted that there was no infirmity or illegality in the impugned order and hence prayed for the dismissal of the writ petition.

4. This Court has carefully considered the submissions of the learned counsels on either side and perused the materials available on record.

5. The learned counsel for the petitioner submitted that the impugned order is liable to be set aside on the short ground of non-



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conduct of enquiry before passing the impugned order. He further submitted that charge memo was issued on 21.11.2016, that the petitioner offered his explanation on 20.12.2016, but even without conducting any enquiry, the impugned order was passed. The counsel submitted that the impugned order, hence deserved to be set aside and remanded to the Authority concerned for fresh consideration.

6. Per contra, the learned Standing Counsel for the respondents submitted that as the explanation offered by the petitioner was found unsatisfactory, the impugned order for recovery was passed on 08.2.2017. Therefore, the non-conduct of inquiry was not fatal to the impugned order.

7. From the counter of the respondents, it is clear that no enquiry was conducted in pursuance of the explanation given by the petitioner to the charge memo. The impugned order was passed based on the explanation given by the petitioner, without affording an opportunity to the petitioner by way of enquiry. Therefore, the learned counsel for the



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petitioner is justified in his contention that the impugned order cannot be sustained and the same deserves to be set aside. In view of the above facts I deem it appropriate to set aside the impugned order.

8. Accordingly the impugned order dated 08.2.2017 is set aside. The matter is remitted to the second respondent for fresh disposal. The second respondent is directed to conduct an enquiry within a period of four weeks from the date of receipt of copy of this order and pass final orders within a period of four weeks thereafter. It is clarified that subject to the result of the said enquiry, the petitioner will be entitled to refund of the money already recovered.

9. The Writ Petition is allowed. Consequently, the connected WMP is closed. No costs.

22.10.2024

Index : Yes/No
Neutral Citation : Yes/No

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To

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(Salem Limited),
Head Quarters,
Salem, Salem District.
2. The General Manager,
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(Salem) Limited,
Head Quarters,
Salem, Salem District.

N.MALA, J



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W.M.P.No.11274 of 2017**

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