
(2002) 03 MAD CK 0024

In the Madras High Court

Case No : Writ Petition No. 9078 of 2001 and WMP. No. 12889 of 2001

G. Chockalingam

APPELLANT

Vs

State Express Transport Corporation (T.N. Div. I) Ltd.

RESPONDENT

Date of Decision : 14-03-2002

Acts Referred:

Citation : (2002) 03 MAD CK 0024

Hon'ble Judges : V. Kanagaraj, J

Bench : Single Bench

Advocate : D. Hariparanthaman, for the Appellant; R.P. Kabilan, for the Respondent

Final Decision : Allowed

Judgement

V. Kanagaraj, J.—Petition praying to issue a writ of Certiorari call for the records pertaining to the order in Memo

No.19/002654/DS4/TNSETC/2000 dated 5.3.2001 passed by the respondent and to quash the same.

2. In the affidavit filed in support of the writ petition, the petitioner would submit that the respondent passed the impugned order, ordering for the

recovery of a sum of Rs.25,808/- from the salary of the petitioner in 25 instalments towards the balance of the total fare value of loss ticket

bundles by way of punishment.

3. It is the further case of the petitioner that the petitioner joined the services of the respondent as a Conductor for about 14 years; that on 8-1-

2000 at about 8 p.m., the petitioner was assigned duty in the bus running from Thanjavur to Chennai; that the departure time for that bus was 9.15

p.m.; that he went to the cash section and received the ticket box and the way

bill; that the petitioner verified the entries in the way bill with the ticket bundles in the ticket box and found them tallied; that the petitioner physically verified passengers who had got reservation and got tallied the number of reserved passengers in the bus with the number of passengers found in the reservation chart; that when he opened the ticket box to issue tickets to the remaining passengers, to his shock and surprise, he found that the used ticket bundles were missing; that he made a police complaint with the Thanjavur West Police Station at 10.45 a.m. on 9.1.2000;

4. It is the further case of the petitioner that the petitioner submitted a detailed report dated 10-1-2000 to the Branch Manager; that pending investigation, the petitioner was asked to remit a sum of Rs.1000/-; that the respondent issued a charge memo dated 22.2.2000; that the petitioner submitted a detailed explanation on 5.3.2000; that not satisfied with the explanation of the petitioner, the respondent ordered for enquiry; that the respondent issued second show cause notice dated 12.10.2000 and proposed to impose the punishment of recovery of Rs.25,808/- from the salary of the petitioner towards the value of lost tickets bundles; that the petitioner submitted a detailed explanation dt.13.11.2000; that without considering the points raised in the enquiry as well as in the explanation, the respondent has passed the impugned order dated 5.3.2001.

5. In consideration of the facts pleaded on the part of the petitioner in the writ petition, having regard to the materials placed on record and upon hearing the learned counsel for both, what comes to be known is that it is the admitted case that the petitioner was employed as a Conductor in the respondent Transport Corporation; that on 8.1.2000 when the petitioner was assigned duty in the bus running from Thanjavur to Chennai; that in spite of having received from the cash section, the ticket box and the way bills with the ticket bundles, the petitioner had lost the ticket bundles worth Rs.26,000/- to be issued in favour of the passengers and the money collected, but having lost the ticket bundles, they were not used at all by the petitioner nor is it the case of the respondent Corporation that the petitioner having lost the ticket bundles either any loss had been inflicted to the Corporation or that the petitioner misused the same for wrongful gains.

6. A domestic enquiry has been ordered framing the charges and the enquiry officer was able to find the petitioner guilty of having lost the tickets,

based on which the disciplinary authority had passed the impugned order requiring the petitioner to pay the entire amount borne by the ticket

bundles, inspite of the show cause notice, the petitioner explaining the circumstances under which the bill book was lost and hence the writ petition.

7. The point for consideration is whether by losing the ticket bundles, any monetary loss had been caused to the Management or whether the petitioner had misused the ticket bundles alleged to have been lost to his advantage.

8. It is not at all the case of the respondent Corporation that either any loss had been inflicted by the loss of the ticket bundles for which the petitioner is responsible or is it the case of the Management that the petitioner in any manner realised the values of those tickets to obtain on a

wrongful gain for himself. Therefore it is only the callousness or irresponsible act shown which had resulted in the loss of the ticket bundles and it is

the admitted case that neither the Corporation had to lose any amount much less to the amount borne by the tickets, since had not those tickets

been issued, the money borne therein could not have been realised and therefore by losing of the ticket bundles, it cannot be misconstrued that the

loss had occasioned to the management to the extent of the value of the tickets.

9. Therefore in the above circumstances, the decision arrived at on the part of the respondent Management thereby punishing the petitioner

requiring him to pay the value of the ticket bundles lost is neither rational nor acceptable nor even proportionate to the slackness shown on the part

of the petitioner which alone would come to be proved in the enquiry resulting in the loss of the ticket bundles and if at all, any material loss is

caused to the management, it is the printing cost of the ticket bundles and nothing else.

10. It further comes to be known that the petitioner had already remitted a sum of Rs.1,000/- and for the callous attitude shown in losing the ticket

bundles, the payment of said amount of Rs.1,000/- could be taken as a penalty which would befit the delinquency committed on the part of the

petitioner and therefore barring the said amount no other amount could be recovered from the petitioner as punishment or penalty from the salary

as it is ordered by the respondent Management in the order impugned dated 5.3.2001 which is not only unreasonable , but unconscionable and

irrational as well.

11. Subject to the above observations and the extent of punishment imposed in the preceding paragraph, in all other respects,

(i) the above writ petition is allowed.

(ii) The impugned order dated 5.3.2001 made in Memo.No.19/002654/DS4/TNSETC/2000 by the respondent Management, subject to the observations made in 10th Paragraph, by this court, is set aside.

(iii) However, under such circumstances, there will be no order as to costs.

(iv) Consequently, WMP.No.12889 of 2001 is closed.