

Administrative Court Decision

Title: Permission to post the advertisements on the train windows

Supreme Administrative Court Judgment No. A. 231/2550 * between Mr. Preecha Chuepalakit (the plaintiff) v. State Railway of Thailand (SRT) (the defendant) regarding the dispute in relation to an administrative agency neglecting official duties required by the law to be performed

Permission to post the advertisements on the train windows had made the passengers not enjoy the function of the windows because it turned the passenger carriage to the freight. This was the case that the service provider treated their passengers as inanimate objects, which violated the human dignity, and that the administrative agency had neglected the duty to maintain the equipment used for providing public transportation service required by the law to be performed.

Fact

The plaintiff taking regularly the express train between Bangkok to Chiang Mai, filed that he was aggrieved and injured in consequence of that State Railway of Thailand (the defendant) gave permission for the private companies to post the advertisements (See Through Stickers) on the train windows outside the passenger carriage. He could not see the scenery through the window clearly so that he felt dizzy and sometimes nauseated. The plaintiff submitted the complaint to the defendant to remove the advertisements, but the defendant gave no response. The plaintiff claimed that the defendant's inaction was the neglect of duties required by the law to be performed. Accordingly, the plaintiff requested the Administrative Court to have a judgment or an order the defendant to remove all the advertisements from the train windows in every train throughout the country and also clean its windows.

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The decision of the Supreme Administrative Court

Article 9 of State Railway of Thailand Act of B.E. 2494 (1951) determined the powers and duties for the defendant to carry people, goods, parcels and others related to the train's business, which was a public service. To provide such public service, the defendant not only provided the carriages for carrying people, goods, parcels and others to meet the need of the public, but also kept every part of the trains, which were the significant equipment such as seats, berths, including doors and windows of each passenger carriage in maintenance and convenience for passengers while travelling. Especially windows in all vehicles such as car, bus with or without air-conditioned, they were not used only to allow the light from outside to inside, but they also allowed people inside to see out for entertaining and paying attention to any accidents from outside. The passenger carriages without windows should be called the trucks instead. Moreover, it was called that the service provider who provided such passenger carriages had treated their passengers as inanimate objects, which violated the human dignity. Consequently, the defendant had the duties to provide the passenger carriages in every train with the functional windows. That the defendant had signed the contract to post the advertisements to the body of the train and over its windows was taking advantage of its own business, which the passengers could not use the function of the train windows as they should be. The defendant, therefore, had neglected the duty to provide public transportation service, which was the public service required by the law to be performed.

The Supreme Administrative Court ordered the defendant to remove all advertisements from the train windows and clean the windows within thirty days as from the date of the decision of the Supreme Administrative Court.