



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
AND

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.A(MD) .No.648 of 2015

K.Ariyanayagam

.. Appellant/Petitioner

Vs.

1.The Inspector General Cum Chief Security Commissioner,
Railway Protection Force,
Southern Railway,
6th Floor, Moore Market Complex,
Chennai-600 003.

2.The Deputy Inspector General cum
Additional Chief Security Commissioner,
Railway Protection Force,
Southern Railway,
6th Floor, Moore Market Complex,
Chennai-600 003.

3.The Divisional Security Commissioner,
Railway Protection Force, Southern Railway,
Madurai. .. Respondents/Respondents

Writ Appeal is filed Under Clause 15 of Letter Patent Act,
to set aside the order, dated 30.04.2015 passed in W.P.No.3276 of
2015 by this Hon'ble Court and allow this Writ Appeal.

Prayer in WP(MD). 3276/ 2015 : Writ Petition is filed under Article
226 of the Constitution of India, praying this Court To issue a Writ
of Certiorari, by calling for the records relating to the order of
the 3rd Respondent in his Proceedings in G.O. No. 08/2015 dated
24.02.2015, quash the same.

For Appellant : Mr.Y.Krishnan

For Respondents : Mr.S.Manohar

O R D E R

[Order of the Court was made by V.M.VELUMANI, J]

The appellant herein filed W.P(MD)No.3276 of 2015 to quash
the proceedings in O.O.No.08/2015, dated 24.02.2015 by which, he was
https://trisevisesecurite.gov.in/trisevises/ Integral Coach Factory (ICF), Perambur, Chennai. The
said writ petition was dismissed on 30.04.2015. Against the said
order, the petitioner has filed the present writ appeal.

2.Facts of the Case:-

The appellant was appointed as Nakshak in the Railway Protection Force by the first respondent. He has completed 30 years of service. He was promoted as Assistant Sub Inspector and joined in Milavitan Out Post, Tuticorin District from Karaikudi in the year 2013. On 26.06.2014, an inquiry was conducted by the Inspector In-charge. There was no complaint against the appellant. No charge memo was issued. He was not even given any opportunity of hearing and as a result of said inquiry, he was relieved from Milavitan Out Post and sent to Madurai and temporarily transferred to Virudhunagar on 18.09.2014. Then, he was temporarily attached to the office of the Inspector of Police, Railway Protection Force, Virudhunagar on 18.09.2014. Then by the impugned order O.O.No.08/2015, dated 24.02.2015, the first respondent has transferred the appellant to Integral Coach Factory (ICF), Perambur, Chennai. According to the first respondent, he was transferred on Administrative grounds. The appellant has alleged that within a period of 8 months from 26.06.2014 to 24.02.2015, he was transferred three times. He was suffering from back pain and therefore, was admitted in the Railway Hospital. Appellant's daughter A.Vigneshwari sent a representation, dated 01.03.2015 stating that Sub Inspector Manojkumar Yadav was giving mental torture to the appellant and requested CBI inquiry into the allegations levelled against the appellant. The first respondent in his reply, dated 10.03.2015 stated that based on the written complaint, dated 11.06.2014 against the appellant an inquiry was conducted. The allegations made against the appellant were found to be true. Based on the inquiry, appellant was transferred to Integral Coach Factory (ICF), Perambur, Chennai and Manojkumar Yadav, Sub Inspector was sought to be transferred to Palghat Division of Kerala State. The appellant has alleged that the said Manojkumar Yadav was not transferred to Palghat Division and still he is working in Tuticorin. The appellant has alleged that by the impugned order, dated 24.02.2015, the appellant was transferred to Integral Coach Factory (ICF), Perambur, Chennai only by way of punishment and not due to administrative reason. The appellant also contended that the members of Railway Protection Force working in Integral Coach Factory (ICF), Perambur, Chennai are not under the control of the first respondent and therefore, the first respondent has no power to transfer the appellant from Southern Railway Zone to Integral Coach Factory (ICF), Perambur, Chennai.

3.The respondents filed counter affidavit and denied the various averments made by the petitioner. According to the respondent, as per Rule 90 of RPF Rules, 1987, the first respondent is the competent authority to transfer member of the force to anywhere in the Zonal Railway on administrative grounds. The first respondent has passed the orders transferring the appellant on administrative grounds and the said order was communicated to the appellant. Thus before the writ Court, the respondents prayed to

<https://tcrs.judges.org.in/tcrs/judges>

4.Considering the averments, the writ petition was dismissed with costs of Rs.2,500/-.

5. Against the said order of dismissal, dated 30.04.2015, the present appeal has been filed by the petitioner.

6. The learned counsel for the appellant contended that when the first respondent in the reply, dated 10.03.2015 has admitted that based on the proven charges, the appellant was transferred to Integral Coach Factory (ICF), Perambur, Chennai, the transfer order is punitive. The respondent did not follow the procedures laid down in the Railway Servants (Disciplinary and Appeal) Rules, 1968. When Mr. Manojkumar Yadav, Sub Inspector of Police, against whom the appellant made allegations, still working in Madurai and not transferred to Palghat Division, the impugned order is discriminatory. The appellant has produced the copy of the order to show that Manojkumar Yadav still working at Madurai. The impugned order of transfer was issued in violation of Rule 91(2) and Schedule II of Railway Protection Force Rules 1987. The order of transfer was issued without obtaining concurrence from the Director General of Railway Protection Force and therefore void in law. The impugned transfer is made with malafide intention and it is a punishment transfer and not on administrative grounds.

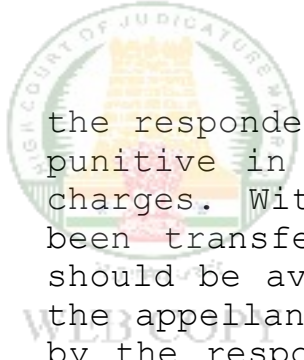
7. Per contra, the learned counsel for the respondents contended that the impugned transfer is not a punishment transfer or denied the contentions that it made with a malafide intention. He reiterated that the appellant was transferred only on administrative reason. He further submitted that Mr. Manojkumar Yadav, Sub Inspector was transferred to Madurai on temporary basis and subsequently retained only at Madurai and he was not posted at Palghat Division. He submitted that reply given to the appellant's daughter that Mr. Manojkumar Yadav was transferred to Palghat was a mistake. But the fact remains that he was also transferred from the earlier station, along with the appellant, and therefore, prayed for dismissal of the writ appeal.

8. Heard the learned counsel appearing for the appellant and the respondents and perused all the materials on record and considered the arguments advanced by the learned counsel for the parties.

9. The appellant is challenging the order of transfer, dated 24.02.2015 whereby he was transferred to Integral Coach Factory (ICF), Perambur, Chennai from Virudhunagar Out Post. The learned counsel for the appellant contended that the said transfer is malafide one and was made as a punishment, and not on administrative grounds. He vehemently contended that as per the letter, dated 10.03.2015 issued by the first respondent to the daughter of the appellant, the first respondent has admitted that

" the allegations brought against Sri.K.Ariyanayagam are found to be true. On perusing the merits of the case, considering his service, age, family circumstances, etc., Sri.K.Ariyanayagam has been transferred to ICF/Chennai which is a non-sensitive place and comparatively has lesser work load."

10. The first respondent in the letter, dated 10.03.2015 had admitted that for the proven charges, the appellant is transferred to non-sensitive place with lesser work load. This admission on the part of



the respondent clearly shows that the impugned transfer order is only punitive in nature, for the reason that it is on account of proven charges. Within eight months from 26.06.2014 to 24.02.2015 he has been transferred twice. It is well settled that frequent transfer should be avoided. Therefore, the contention of learned counsel for the appellant has considerable force. That apart it is also admitted by the respondent that an inquiry was conducted and a punishment of stoppage of increment of 24 months had been imposed. For the reasons stated supra, the impugned order of transfer is liable to be set aside.

10. In the result, the Writ Appeal is allowed and the order passed by this Court in W.P.(MD)No.3276 of 2014, dated 30.04.2015 is set aside and the impugned proceedings in O.O.No.08/2015, dated 24.02.2015 is quashed. No costs.

SD

ASST REGISTRAR -WRITS

TRUE COPY

SUB ASST REGISTRAR

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To

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Railway Protection Force,
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Railway Protection Force, Southern Railway, Madurai.

1CC TO MR. S. MANOHAR ADV SR: 39386
1CC TO MR. Y. KRISHNAN ADV SR; 39601

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