

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2016

CORAM

THE HON'BLE MR. JUSTICE B.RAJENDRAN

WP.No. 23772/2016
and W.M.P.No.20363 of 2016

K.Ravikumar

.. Petitioner

Vs

The Senior Deputy Manager (HRD)
Metropolitan Transport Corporation
(Chennai) Limited
Pallavan House
Anna Salai
Chennai-600 002.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of the respondent in Memo No.545/PS(E)2/MTC/2015, dated 30.06.2016 and quash the portion of order posting and asking the petitioner to work as Mechanic at FC Unit and consequently, to direct the respondent to give earlier work done by the petitioner in cash and ticket section and pass such other orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.S.T.Varadarajulu

For Respondent : Mr.P.Paramasivados

सत्यमेव जयते

O R D E R

This Writ Petition has been filed challenging the order of transfer passed by the respondent, on 30.06.2016, mainly on the ground that the petitioner has been transferred to work in Mechanical Section as Tradesman in FC Unit at Ayanavaram Depot.

2. According to the petitioner, all along, he has been working in the Cash Section as Cashier, therefore, he cannot be transferred to another Mechanical Section to work as Tradesman, which is nothing but change in service condition and therefore, Section 9-A of the Industrial Disputes Act and Forth Schedule

of the Act, which prohibits imposing any change in service condition without notice, is violated. Hence, the present Writ Petition.

3. Mr.S.T.Varadarajulu, the learned counsel for the petitioner would contend that the petitioner is ready for the transfer and willing to work as Cashier , but, he is questioning the transfer on the ground that he was transferred to work at Mechanical Section as Tradesman. He would further add that the petitioner has earlier filed a Writ Petition in W.P.No. 14167 of 2016, seeking to prohibit the respondents therein from relieving or transferring or changing the service condition of the petitioner without written order. This Court, by order, dated 13.06.2016, observed that the respondents asked the petitioner to report duty at Ayanavaram Depot only to increase the man power, but the petitioner neither joined the duty nor obeyed the order, however, he made a representation dated 11.04.2016 stating that he should be given duty at Ambattur Depot or relieving order and ultimately, the Writ Petition was closed.

4. Mr.P.Paramasivadosh, the learned Standing Counsel appearing for the respondent would contend that originally, the petitioner was appointed as Junior Tradesman, thereafter, he was promoted as Tradesman and then, promoted as Senior Tradesman, thus, he was posted in the Technical Department throughout. For sometime, he was given Cashier work. Taking advantage of the fact that for sometime, he was working in the Cash Department, he cannot now gainsay that he cannot be posted in the Mechanical Section. He would further add that his original appointment is as Junior Tradesman and his nature of work is purely technical and therefore, would contend that there is no change in service condition and it neither affects the service condition nor attract Section 9-A of the Industrial Disputes Act.

5. By consent, the main Writ Petition is taken up and disposed of at the admission stage itself.

6. At the outset, I have to state that the petitioner somehow wants to avoid the transfer. Earlier, the petitioner filed W.P.No. 14167 of 2016, questioning the transfer on the ground that he was orally informed to report duty at Ayanavaram Depot, FC unit, but, he was not given relieving order. The said Writ Petition was closed, by order dated 13.06.2016, by observing in paragraph No. 5 as follows:-

"5. Considering the submissions made on either side, it is seen that the respondents asked the petitioner to report duty at Ayanavaram Depot only to increase the man power but the petitioner neither joined the duty nor obeyed the order, however, he made a representation dated 11.04.2016 stating that he should be given duty at Ambattur

Depot or give relieving order. Therefore, this Court is not inclined to allow this Writ Petition and hence, the same is closed..”

After the order was passed in the above Writ Petition, the present impugned order has been passed by the respondent, asking the petitioner to report duty at Ayanavaram Depot, FC Unit. Can a person, who was originally appointed as Junior Tradesman, thereafter, promoted as Tradesman and Senior Tradesman, can now claim the benefit of saying he cannot be transferred to a Mechanical post as he was working as a Cashier in Cash Department for sometime. The answer would be definitely, “No”. Section 9-A of the Industrial Disputes Act, prohibits imposing any change in service condition without notice. In this case, it is not as if the service condition of the petitioner is altered, so there is no violation of Section 9-A of the Industrial Disputes Act. If the service condition is altered, definitely, the Court will come to the rescue. As stated by the learned standing counsel for the respondent, the petitioner was initially appointed as Junior Tradesman and then, promoted as Tradesman and then as Senior Tradesman and thus, it is clear that he was posted in the Technical Department. No doubt, for some time, he was allowed to work as a Cashier. That by itself will not preclude the authority concerned from posting him to a Mechanical Section, to which, he originally belongs. Therefore, I find that the transfer order is correct and it needs no interference at the hands of this Court. This Writ Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Senior Deputy Manager (HRD)
Metropolitan Transport Corporation
(Chennai) Limited
Pallavan House
Anna Salai
Chennai-600 002.

+1 cc to Mr.P.Paramasivados Advocate sr.38799

W.P.No.23772/2016

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