

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 13.7.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.23836 of 2016

K.Mayilsamy

... Petitioner

Vs

- 1 The General Manager
Tamilnadu State Transport Corporation Salem
Division No.21 Ramakrishna Road Salem-7.
- 2 The Branch Manager
Mettur Depot. Tamilnadu State Transport
Corporation Salem Division Mettur
Salem-636 401.
- 3 The Branch Manager
Tamilnadu State Transport Corporation
Namakkal-2 Branch Namakkal. Respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorari calling for records pertaining to the impugned order passed by 1st respondent in order No.E2/81/ TNSTC(Salem)/2016 dated 15.06.2016 and quash the same.

For petitioner
For respondents

... Mr.T.R.Udaya Kumar
... Mr.R.K.Gandhi

O R D E R

Heard Thiru.T.R.Udaya Kumar, learned counsel for the petitioner and Thiru.R.K.Gandhi, for the respondents.

2. With the consent of both the sides, the Writ Petition is taken up for disposal.

3. The petitioner, who is working as a driver under the respondent Corporation, by the impugned proceedings, has been transferred to Namakkal. The petitioner has challenged the impugned proceedings on the ground that it is in violation of

the transfer policy, as formulated by the Government, in G.O.Ms.No.10, P & AR, (Per.S) Department, dated 7.1.1994. Further, it is submitted that the petitioner sought for certain information under the Right to Information Act, as to the number of kilometers the vehicle will travel and other queries.

4. Firstly, the order of transfer cannot be interfered, unless and until, a clear case of mala fides are established. Admittedly, there is no such plea. That apart, the petitioner has not questioned the jurisdiction of the respondent to transfer him. The Government Order referred to by the petitioner is a guideline prepared by the Government to be forwarded to the Heads of Department, including the District Collector. It is not known as to whether the respondent Corporation has framed their own guidelines. In any event, it is a guideline and transfer is not an incidence of service but also condition of service. Therefore, on the grounds raised by the petitioner, order of transfer cannot be interfered with. Accordingly, the Writ Petition is dismissed.

5. However, this will not prevent the petitioner from submitting a representation setting out his grievances and if such representation is made, the first respondent shall consider the same on merits and in accordance with law. To enable the petitioner to submit a representation, first he should join the transferred place and thereafter, make representation. The first respondent shall consider the representation sympathetically and pass appropriate orders, within a period of two weeks from the date of receipt of a copy of the representation.

6. The Writ Petition is disposed of accordingly. No costs. Consequently, W.M.P.No.20452 of 2016 is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

- 1 The General Manager
Tamilnadu State Transport Corporation Salem
Division No.21 Ramakrishna Road Salem-7.

2 The Branch Manager,
Mettur Depot. Tamilnadu State Transport
Corporation, Salem Division, Mettur,
Salem-636 401.

3 The Branch Manager,
Tamilnadu State Transport Corporation,
Namakkal-2 Branch, Namakkal.

+1cc to Mr.T.R.Udayakumar, Advocate Sr.39567

+1cc to Mr.R.K.Gandhi, Advocate sr.39851

W.P.No.23836 of 2016

ad[co]
srg 04/08/2016



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