

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No.5043 of 2014 &
M.P.No. 1 of 2014

Jeevanantham,

... Petitioner

Vs

The General Manager,
The Tamil Nadu State Transport Corporation,
Villupuram Division,
Villupuram.

...Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue of Writ of certiorarified mandamus, calling for the records pertaining to order Ka.Ku.No.05/23893/N5/TNSTC(V)/2014 dated 04.02.2014 passed by the respondent and quash the same and consequently direct the respondent to transfer the petitioner to Ulunthurpet depot taking into account the government letter(ms).92/S/09 of the Personnel and Administrative Reforms(S) Department dated 22.07.2009.

For Petitioner : Mr.K.C.Karl Marx

For Respondent : Mr.P.Paramasivadoss

ORDER

The order of transfer issued by respondent in proceeding dated 04.02.2014, transferring the writ petitioner from Vikravandi to Tindivinam branch on administrative grounds is under challenge in this writ petition.

2. The writ petitioner states that he is differently abled person suffering from 70% locomotive motor disability. The writ petitioner joined as an apprentice in the Transport Corporation in the year 2005-06 and thereafter temporarily appointed in the respondent corporation on 02.05.2001. Originally he was posted at Unit II, Villupuram, and his services were confirmed in proceeding dated 18.06.2012 with

effect from 24.01.2012. The petitioner states that he is physically challenged Government Servant and therefore transfer was provided to the petitioner as per his choice by way of mutual transfer. The writ petitioner was posted to Ulunthurpet Depot and subsequently he was retransferred from Ulunthurpet Depot to Vikravandi Depot. The petitioner filed W.P. No.115 2013 and this court passed an order on 19.04.2013 directing the respondents to consider the representation submitted on 09.02.2013 considering his medical records. However, the respondent passed an order on 25.07.2013 rejecting the claim of the petitioner to grant retransfer. Accordingly he was continuing in the post at Vikravandi Depot. However, again the writ petitioner is now transferred from Vikravandi to Tindivanam in proceeding dated 04.02.2014 on administrative grounds and the said order is challenged in this writ petition.

3. The claim of the petitioner is that he is differentially abled person, therefore he should be allowed to work in the same station. The very concept mooted out by the writ petitioner in this regard is unacceptable. This Court is of the opinion that once a differentially abled person is appointed in Government service, then he shall be abide by the terms and conditions of the service. Certain preferences and considerations in respect of transfers can be shown only by the competent authorities and certainly not by constitutional Courts. Transfer is an incidental to service, more so a condition of service. The quota on differently abled is provided by the State in order to provide appointment to the differently abled persons in public employments in State/Union. Once a person is appointed then he cannot plead that he will not work in other stations. The Government Servants wherever they are posted they are bound to serve to the public in general and in the interest of the administration. Certain personal grievances or incapacities shall be pleaded before the competent authorities and it is for them to assess the factual situations and transfer an employee or retransfer them in the interest of public administration. This Court of view that an order of transfer can be challenged if the same was issued by an incompetent authority having no jurisdiction or an allegation of malafides are raised or if the same is in violation of any statutory rule. Even in case of raising allegation of malafidies, the authority to whom such an allegation is raised, should be impleaded as a party respondent in the writ petition, in his personal capacity, and in the absence of any one of the legal grounds no writ can be entertained against an order of administrative transfer and all such personal grievances of the employees have to be urged before the competent authorities and the constitutional courts cannot exercise the power of judicial review under Article 226

of the Constitution of India, so as to entertain a writ against the order of transfer issued on administrative grounds.

4. In the case on hand the writ petitioner has been transferred from Vikravandi to Tindivanam, within the same district. Thus this court is not inclined to consider the case of the writ petitioner on merits and writ petitioner is bound to join in the transferred place forthwith.

5. Accordingly, no further adjudication on merits needs to be undertaken and the writ petition stands dismissed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

bsm

To

The General Manager,
The Tamil Nadu State Transport Corporation,
Villupuram Division,
Villupuram.

+1cc to Mr.K.C.Karl Marx, Advocate, S.R.No.76452

+1cc to Mr.P.Paramasivadoss, Advocate, S.R.No.79569

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SJ(CO)
CS/04/12/17

सत्यमेव जयते

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