

IN THE HIGH COURT JUDICATURE AT MADRAS

DATED : 23.01.2017

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.334 of 2017 and
W.M.P.Nos.370 and 371 of 2017

N.Ilango

.. Petitioner

Vs

- 1.The Secretary,
Transport Department,
Chief Secretariat,
Pondicherry-605 001.
 - 2.The Managing Director,
Pondicherry Road Transport Corporation,
Behind Pondicherry New Bus Stand,
Kuyavarapalayam Post,
Pondicherry-13.
 - 3.Dr.Devaraj, I.F.S.,
Managing Director,
Pondicherry Road Transport Corporation,
Behind Pondicherry New Bus Stand,
Kuyavarapalayam Post,
Pondicherry-13.
 - 4.The General Manager-cum-Company Secretary,
Pondicherry Road Transport Corporation,
Behind Pondicherry New Bus Stand,
Kuyavarapalayam Post,
Pondicherry-13.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records pursuant to the impugned order passed by the 4th respondent in No.40/PRTC/Admn/2015/1905 dated 25.11.2016 and quash the same.

For Petitioner : Mr.T.Sundaravadanam

For Respondents: Mrs.Reena Iswariya,
Addl. Govt. Pleader for R1
Mr.A.R.Nixon for R2 to R4

ORDER

By consent, the writ petition itself is taken up for final disposal.

2. The petitioner, who was working as a Junior Tradesman right from the date of his appointment i.e. on 13.02.2010 as a daily wages employee in the service of the respondent Transport Corporation, came to be regularised w.e.f. 27.08.2014 and he further states that he was also unanimously elected as the President of the Bharathiya Puducherry Road Transport Corporation Workshop Labour Union, affiliated to Bharathiya Mazdoor Sangam on 12.11.2016 and the petitioner, in that capacity, used to participate in the Trade Union activities, fighting for the rights of the workmen before the Management as well as before the Labour Forum. It is the specific contention of the petitioner that on account of this, the 3rd respondent continued to harass and victimise him and therefore, the 4th respondent has passed the impugned order of transfer dated 25.11.2016 by transferring him from Puducherry to Yanam for 6 months with immediate effect with a direction that he shall co-ordinate and supervise the operation and collections of buses at Yanam Branch. Challenging the legality of the said order, the petitioner came forward to file this Writ Petition.

3. Mr.T.Sundaravadanam, the learned Counsel appearing for the petitioner by drawing the attention of this Court to the materials placed before me would vehemently contend that in the middle of the academic year, the petitioner has been transferred to Yanam which is about 600 kms. away from the present place of posting and admittedly, only two buses are being operated by the Puducherry Road Transport Corporation and the maintenance of those buses is also entrusted to a private workshop and as such, there is no necessity to transfer him and post him at Yanam. It is the further submission of the learned Counsel for the petitioner that even in the main branch, very many posts are vacant and therefore, the requirement of the petitioner in the main branch or workshop is absolutely necessary and only on account of the Trade Union activities, he is victimised and transferred to a place which is about 600 kms. away from the present place of posting and prays for interference.

4. Heard Mrs.Reena Iswariya, the learned Additional Government Pleader (Pondicherry), who accepts notice on behalf of the 1st respondent and Mr.A.R.Nixon, the learned Standing Counsel appearing for the respondents 2 to 4.

5. The learned Standing Counsel appearing for the respondents 2 to 4 has filed a counter affidavit of the respondents 2 and 3 and would submit that the order of transfer has been passed purely on administrative grounds and denied the allegation that the impugned order of transfer came to be passed on account of the active participation of the petitioner in the Trade Union activities. He would further submit that technical staffs are essential for the maintenance and operation of the buses and since the maintenance, repair works and F.C. works are carried out in the Private Workshop, the duty of the petitioner is to only look after the operation of buses and the collection. Further, the transfer of the petitioner is for 6 months only and after the completion of 6 months, another junior most employee in the seniority list will be transferred in his place and the transfer order is also in tune with the fact that the junior most in the seniority list has to be transferred and accordingly, he has been transferred.

6. So far as the contention of the petitioner that in the event of his transfer to Yanam, his monthly emoluments are likely to be affected, the learned Standing Counsel appearing for the respondents 2 and 3 has drawn the attention of this Court to paragraph 12 of the counter affidavit and would submit that there cannot be any reduction in emoluments and the petitioner, being a qualified technical person, his service would be of great help in maintaining the buses which are operating from Yanam and prays for dismissal of the writ petition.

7. This Court bestowed its attention to the rival submissions and also perused the materials placed before him.

8. It is a well settled position of law that the administrative decision taken by the management to transfer a particular individual to a particular place cannot be interfered with, unless, it is due to malafide or by way of punishment. Though, it is contended by the learned Counsel for the petitioner that on account of the participation of the petitioner in the Trade Union activities, he has been singled out and transferred to Yanam which is for about 600 kms. away from the present place of posting, the said fact has been denied by the respondents 2 and 3 in their counter affidavit and it is the submission of the learned Standing Counsel for the respondents 2 and 3 that only due to administrative reasons and

that too, for a period of six months, the transfer has been effected and after the period of six months, he would be accommodated in the main office/main workshop.

9. A perusal of the typed set of documents discloses that the Bharathiya Puducherry Road Transport Corporation Workshop Labour Union, affiliated to Bharathiya Mazdoor Sangam has also submitted a representation dated 08.12.2016 to the 1st respondent in this regard. The petitioner, being the President of the Labour Union, has also submitted a representation dated 24.12.2016 to the 2nd respondent praying for his re-transfer.

10. This Court, in the light of the above facts and circumstances, without going into the merits of the claim projected by the petitioner, permits the petitioner to submit one more representation to the 1st respondent along with a copy of this Order as well as a copy of the earlier representation dated 08.12.2016 within a period of two weeks from the date of receipt of a copy of this Order and upon receipt of the same, the 1st respondent shall put the respondents 2 and 3 on notice and thereafter, give a disposal to the said representation on merits and in accordance with law, within a period of four weeks thereafter and communicate the decision taken to the petitioner.

11. The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary,
Transport Department,
Chief Secretariat,
Pondicherry-605 001.
- 2.The Managing Director,
Pondicherry Road Transport Corporation,
Behind Pondicherry New Bus Stand,
Kuyavarapalayam Post, Pondicherry-13.

3.Dr.Devaraj, I.F.S.,
Managing Director,
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4.The General Manager-cum-Company Secretary,
Pondicherry Road Transport Corporation,
Behind Pondicherry New Bus Stand,
Kuyavarapalayam Post,
Pondicherry-13.

+1cc to Mr.A.R.Nixon, Advocate Sr.4341
+1cc to Mr.K.Sathiyamurthy, Advocate Sr.4337

W.P.No.334 of 2017

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srg 30/01/2017



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