

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2017

CORAM

THE HONOURABLE MR. JUSTICE T. RAJA

W.P.Nos.27806 and 27807 of 2017 and

WMP.Nos.29793 and 29794 of 2017

A.Murugesan
N.Sundaresan

.. Petitioner in W.P.No.27806/2017
.. Petitioner in W.P.No.27807/2017

Vs.

1. Tamil Nadu State Transport Corporation
(Salem) Limited rep. by its Managing Director,
No.12, Ramakrishna Road,
Salem-7.
2. The General Manager,
Tamil Nadu State Transport Corporation (Salem)
Limited, Dharmapuri Region,
Bharathipuram, Dharmapuri-5.
3. Mahendran
4. The Branch Manager,
Tamil Nadu State Transport Corporation (Salem)
Limited, Palacode Branch,
Dharmapuri-636 802. ... Respondents in both W.Ps.

Writ Petition No.27806/2017 filed under Article 226 constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 09.10.2017 issued by the 2nd respondent in Proceeding No.PA3/5957/TNSTC/Dha.puri/2017 and the order dated 12.10.2017 issued by the 4th respondent in Ref.No.TNSTC/Palacode Branch No.Nil, quash the same and consequently, direct the respondents to treat the period from 07.10.2017 as duty with pay for all purposes, award costs.

Writ Petition No.27807/2017 filed under Article 226 constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 09.10.2017 issued by the 2nd respondent in Proceeding No.PA4/6571/TNSTC/Dha.puri/2017 and the order dated 14.10.2017 issued by the 4th respondent in Ref.No.TNSTC/Palacode Branch No.Nil, quash the same and consequently, direct the respondents to treat the period from 07.10.2017 as duty with pay for all purposes, award costs.

For Petitioners : Mr.V.Ajoy Khose

For Respondents : Mr.R.K.Gandhi
1, 2 and 4

O R D E R

Questioning the correctness of the impugned transfer order dated 09.10.2017 passed by the 2nd respondent, the present Writ Petitions have been filed.

2. The case of the petitioners is that the petitioner in W.P.No.27806/2017 joined the services of the erstwhile Anna Sathya Transport Corporation, Dharmapuri as Conductor on 23.04.1995 whereas the petitioner in W.P.No.27807/2017 joined as driver on 25.07.1999. Now the said Corporation has been merged with the 1st respondent Corporation.

3. It is the further case of the petitioners that on 02.10.2017, they have been given regular posting in Route No.212A in which the first single will be operated from Palacode to Bangalore via Marandahalli, Royakottai and Hosur, the second single will be operated from Bangalore to Dharmapuri, the third single will be operated from Dharmapuri to Bangalore and the fourth and last single will be operated from Bangalore to Dharmapuri and after completing the fourth single at Dharmapuri, the bus will be taken to Palacode Bus Stand and after dropping the passengers, the bus would be taken to Palacode Depot for halt.

4. Accordingly, on 02.10.2017 at 4.40 a.m. the petitioners proceeded towards Bangalore. Though the normal scheduled arrival time at Bangalore is 7.45 a.m. due to heavy traffic, they could reach Bangalore only at about 8.30 a.m. whereas the departure from Bangalore is at 8.30 a.m., the petitioners without taking breakfast started the second single from Bangalore at 8.30 a.m. and reached Dharmapuri Bus Stand at 12.40 p.m. when the actual arrival time is 12.30 p.m. Thereafter, as per the schedule timings, the next single from Dharmapuri is at 1.40 p.m. However, the Checking Inspector one Murugesan, who was doing time keeper work at Dharmapuri Bus Stand instructed to operate the bus to Salem immediately. Though the petitioners explained their health problems and had not even taken their breakfast, the Checking Inspector did not allow them to take food and informed them to meet the 3rd respondent who was also present there at that time. Accordingly, the petitioners met the 3rd respondent and informed him that they are diabetic patients and they could not do the work without taking breakfast and from the short distance from Dharmapuri to Salem, they could

not take food. Though the Checking Inspector did not allow them to do so, the petitioners after having their food, as instructed by the Checking Inspector, drove the bus to Salem at 1.20 p.m. and came back to Dharmapuri at 6.50 p.m. Thereafter, they took their regular third single from Dharmapuri to Krishnagiri and Hosur at 6.55 p.m. in stead of the regular time at 1.40 p.m. Thereafter, took the bus from Bangalore at 11.50 a.m. and reached Dharmapuri at 2.40 a.m. and then proceeded to Palacode Bus Stand at 3.40 a.m. and reached the depot at 3.50 p.m.

5. Again as per the routine, when the petitioners reported to duty on 4.10.2017 and took the bus to Palacode Branch for brake adjustment, the Branch Manager asked them to meet the 3rd respondent in the Regional Office on the next day. Accordingly, the petitioners went to the Regional Office and met the 3rd respondent, who scolded them for not obeying the orders of the Checking Inspector on 02.10.2017. After taking weekly holidays, the petitioners reported for duty on 7.10.2017 in Palacode Branch as usual, but no work was allotted to them. Therefore, the petitioners sent a letter dated 7.10.2017 to the 4th respondent Branch manager followed by the representations dated 10.10.2017 to the respondents 1 and 2 to issue directions to the 4th respondent to permit them for work and also to give them attendance from 07.10.2017. But no reply was received for the same. However, a Transfer Order dated 09.10.2017 along with the relieving order dated 12.10.2017 and 14.10.2017 respectively were served on them. Hence, the present Writ Petition.

6. Heard the learned Counsel for the petitioners and the learned Counsel appearing for the respondents 1, 2 and 4 and I have also perused the materials available on record.

7. This Court is not inclined to entertain the present Writ Petitions since no merit could be seen in either of the contention of the learned Counsel for the petitioners. Though the impugned order of transfer has been challenged on the ground of malafide intention and attributed punitive measure, a perusal of the same clearly shows that the same has been passed due to administrative exigency. Where there is no element of punitive measure or malafide intention is found in any one of the transfer orders, this Court is not inclined to interfere with the same. Further, the transfer is not only a condition of service, but it is an incident of service. In the present cases, the transfer order has been passed only on administrative reasons. Therefore, I find no merit in these present writ petitions.

8. In the result, the Writ Petitions fail and the same are

accordingly dismissed. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. Managing Director,
Tamil Nadu State Transport Corporation
(Salem) Limited,
No.12, Ramakrishna Road,
Salem-7.
2. The General Manager,
Tamil Nadu State Transport Corporation (Salem)
Limited, Dharmapuri Region,
Bharathipuram, Dharmapuri-5.
3. The Branch Manager,
Tamil Nadu State Transport Corporation (Salem)
Limited, Palacode Branch,
Dharmapuri-636 802.

+2 ccs to M/s.V.Ajoykhose Advocate sr 76857, 76856

+1 cc to M/s.R.K.Gandhi Advocate sr 76860

W.P.Nos.27806 & 27807/17

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