



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2017

CORAM:

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THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**
AND
THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

W.A.[MD].No.419 of 2017
against W.P.(MD).No.24397/16
and
C.M.P(MD).No.3855 of 2017

A.Mohammed Kaja Maideen : Appellant/Petitioner

Vs.

1. Tamilnadu State Transport Corporation (Coimbatore) Ltd,
Represented by its Managing Director,
Coimbatore-43.
2. The General Manager,
Tamilnadu State Transport Corporation (Coimbatore) Ltd,
Coimbatore-43.
3. The Branch Manager,
Tamilnadu State Transport Corporation (Coimbatore) Ltd,
Palani-I Branch, Palani,
Dindigul District. : Respondents/Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 20.12.2016 made in W.P.No.24397 of 2016, on the file of this Court.

Prayer in WP(MD). 24397/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari calling for the records pertaining to the impugned transfer order passed by the 2nd respondent in Ref.No. 3574/E3B/52B/Pa. Thu.1/ Tha.Aa. Po.Ka(Ko)/2016 dated 23.11.2016 and consequential relieving order of the 3rd respondent bearing No.16019, dated Nil, sent to the petitioner by registered post on 09.12.2016 quash the same.

For Appellant

: Mr.S.Royce Immanuel

For Respondents

: Mr.K.Sathya Singh

Standing Counsel

**JUDGMENT**

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

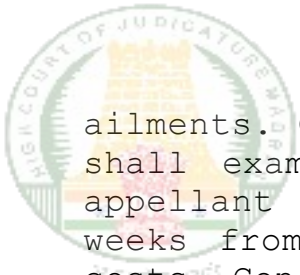
Heard Mr.S.Royce Immanuel, learned counsel appearing for the appellant and Mr.K.Sathya Singh, learned Standing Counsel appearing for the respondents. By consent, the Writ Appeal is taken up for final disposal at the stage of admission itself.

2. This Writ Appeal has been filed against the order dated 20.12.2016 made in W.P.No.24397 of 2016, by which the Writ Petition filed by the appellant herein challenging the order of transfer, dated 23.11.2016 and the consequential relieving order was dismissed.

3. The case of the appellant is that he is a Trade Union Activist and six charge memos were issued to him during the period, 2011 - 2016 and punishment was imposed for various periods and the appellant has raised industrial dispute challenging the punishments and in order to victimize him, he has been transferred from Palani to Udumalpet. Further, the petitioner raised a plea that his widowed mother and sisters are with him and he has two children aged about 4 years and 3 months respectively and the first child is suffering from Mesenteric Adenitis and that his juniors have been retained in the same place. The learned Single Judge rightly held that the transfer is an incident of service and held that unless and until the transfer is vitiated by mala fide or in violation of any statutory provision, the same cannot be interfered with.

4. After referring to the decision of the Hon'ble Supreme Court in Rajendra Roy Vs.Union of India and another, reported in 1993 (1) SCC 148, it was held that the appellant has not adduced any evidence to show that the order of transfer was actuated by mala fide or bias. Therefore, the Writ Petition was dismissed. We are in entire agreement with the view expressed by the learned Single Judge and as the appellant has failed to establish the plea of mala fide, there is no good ground made out to interfere with the order of transfer. Therefore, the Writ Appeal is liable to be dismissed.

5. At this juncture, the learned counsel appearing for the appellant submitted that on account of medical condition of the son of the appellant as well as his medical condition, the second respondent should consider the case of the appellant to re-transfer him sympathetically. We will be inclined to issue such a direction to the second respondent, only if the appellant joins the transferred place. Accordingly, while dismissing the Writ Appeal, we issue a direction to the appellant to go and join at Udumalpet and after joining at Udumalpet, he is entitled to submit a request to the second respondent along with all medical records to support the stand taken by him, viz., his son is suffering from Mesenteric Adenitis and he is also having certain



ailments. On receipt of such representation, the second respondent shall examine the same on merits and consider the case of the appellant and pass appropriate orders within the period of four weeks from the date on which the representation is received. No costs. Consequently connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Managing Director,
Tamilnadu State Transport Corporation (Coimbatore) Ltd,
Coimbatore-43.
2. The General Manager,
Tamilnadu State Transport Corporation (Coimbatore) Ltd,
Coimbatore-43.
3. The Branch Manager,
Tamilnadu State Transport Corporation (Coimbatore) Ltd,
Palani-I Branch, Palani,
Dindigul District.

+1cc to M/S.S.ROYCE IMMANUEL, Advocate SR.No. 52652
+1cc to M/S.K.SATHIYA SINGH, Advocate SR.No. 53002

JUDGMENT MADE IN
W.A.[MD].No.419 of 2017
against W.P.(MD).No.24397/16
and
C.M.P(MD).No.3855 of 2017
19.04.2017

JM/JC/02.05.2017/3P/6C