

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.A.No.1165 of 2018
and
C.M.P.Nos.9348 and 9349 of 2018

B.Palani Appellant/Petitioner

-vs-

The General Manager,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Vellore Zone,
Vellore-9. Respondent/Respondent

Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.10908 of 2018 dated 27.04.2018.

Prayer in WP.No.10908/2018:Writ petition filed under Article 226 of the Constitution of India praying for issuance of writ of certiorarified mandamus, to callfor the records relating to the petitioners order of transfer dated 17.04.2018 in Memo No.473/E3/ TNSTC (VPM) Vellore/ 2018 - P and consequential relieve order dated 17.04.2018 in Memo No.145532/ Sa4/ Tha Aa Po (Vi) Ve Ma/ 2018 imposed by the respondent herein quash the order enabling the petitioner to continue his service at present place of work at TNSTC Arcot Depot.

For Appellant :: Mr.G.Magesh Kumar

For Respondent :: Mr.K.Kulandaivelu for
Mr.A.Antony Arokiyaraj

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The appellant is working as a driver under the respondent Corporation. On 27.01.2018, a Policeman attached to Kondampalayam Police Station, Vellore District came for an enquiry in the Transport Corporation Depot and named the appellant as an accused in FIR in Crime No.22 of 2018 dated 27.01.2018 and a case was registered under Section 304(A) IPC against the appellant for causing death by rash and negligent act by way of road accident. The alleged accident took place at Jamugulam Junction, when the appellant was driving the

Corporation vehicle. Subsequently, disciplinary proceedings were initiated against him and he was placed under suspension for sometime and thereafter, the order of suspension was revoked and he was ordered to join for a training program in three centres for about 34 days. The said order of transfer dated 17.04.2018 and the consequential relieving order dated 17.04.2018 issued by the respondent were challenged in W.P.No.10908 of 2018.

2.It was submitted before the writ Court on behalf of the appellant that the appellant was transferred by way of punishment and therefore, the orders impugned therein are illegal; that the order of suspension has not been revoked and even before revoking the order of suspension, the appellant was transferred from Vellore Station and hence the orders impugned therein are contrary to law.

3.This Court dismissed the writ petition on 27.04.2018 holding that no further adjudication is required in respect of the grounds raised in the writ petition. Challenging the said order, the present writ appeal is filed.

4.The learned counsel for the appellant has submitted that the transfer of the appellant to the training centre clearly indicates the prejudicial mind on the part of the respondent as if the accident had been caused by the appellant, when the criminal case is contemplated and is in the stage of investigation to decide about the accident.

5.Heard the learned counsel for the respondent Transport Corporation on the submissions made by the learned counsel for the appellant and perused the materials available on record.

6.Paragraph-9 of the impugned order reads as follows:

"9.This Court is of an opinion that the revocation of suspension during the pendency of the criminal case registered against the petitioner itself is a concession one. On revocation of suspension, the writ petitioner has been transferred from Vellore to Konavattam 2. Further, concession was provided to the writ petitioner by sending him to attend the training program for the improvement of his driving skills. In spite of attending the training program, the writ petitioner has chosen to file the present writ petition by stating that the transfer was issued by way of punitive order. The fact remains that the writ petitioner has been arrayed as an accused in a criminal case registered in Crime No.22 of 2018 and he is facing the criminal proceedings and on initiation of departmental proceedings, he was placed under suspension. The authorities thought fit to revoke the order of suspension so as to give further training to him by the Training Centre. Thus, the writ petitioner has to join duty and undergo the training program for

the purpose of improvement of training skills in view of the fact that the writ petitioner is performing the public duties and the driving of a heavy vehicle in a public road is certainly sensitive and the driving skill is a paramount skill."

7.The learned single Judge has observed that revocation of suspension during the pendency of the criminal case registered against the appellant itself is a concessional one; that the appellant has to join duty and undergo the training program for the purpose of improvement of training skills in view of the fact that he is performing the public duties and the driving of a heavy vehicle in a public road is certainly sensitive and the driving skill is a paramount skill.

8.Even though the criminal proceedings is pending against the appellant, the authorities thought it fit to revoke the order of suspension so as to give further training to the appellant by sending him to the Training Centre. Further, sending the appellant to the Training Programme was only to develop the driving skills, as he caused death by rash and negligent driving of the bus. This being the facts and circumstances, the learned single Judge held that the appellant has not made out any ground for considering the relief as prayed for in the writ petition. In these circumstances, it cannot be stated that the transfer of the appellant from Vellore to Konavattam-2 to undergo training programme, is punitive in nature. We are not inclined to interfere or deviate from the said factual aspects observed by the learned single Judge.

9.In the result, the writ appeal stands dismissed. No costs. Consequently the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

KM

+1cc to Mr.A.Antony Arockiaraj, Advocate Sr.No.36171

GJII(CO)

sm:2.7.2018

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