

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.04.2018

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

W.P.No.7383 of 2018
and
W.M.P.No.9169 of 2018

P.Rangaiyan

..Petitioner

vs

1.The General Manager,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Thiruvannamalai Region,
Thiruvannamalai.

2.The Branch Manager,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Thiruvannamalai Depot-II,
Thiruvannamalai.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 1st Respondent in Ku.No.26002/Ni2/Tha.Aa.Po.Ka(Vi)/Thi.Ma/2017 dated 15.03.2018 (served on the Petitioner on 23.03.2018) and to quash the same and consequently directing the Respondents to allow the Petitioner to continue to work in the post of Driver in the 2nd respondent Depot-II Thiruvannamalai with all consequential and other attendant benefits.

For Petitioner : Mr.G.Sankaran
for M/s.B.Jawahar

For Respondents : Mr.P.Kannan Kumar

O R D E R

The order of transfer dated 15.03.2018 issued by the 1st respondent, transferring the writ petitioner from Thiruvannamalai Branch to Cheyyaru Branch is under challenge in this writ petition.

2.The writ petitioner was initially appointed as Driver in Tamil Nadu State Transport Corporation(Villupuram)Ltd., on 07.02.2013. Thereafter, through order dated 24.02.2014, the petitioner was converted as daily wage driver. However, the services of the writ petitioner had been regularized in the post of driver with effect from 06.11.2014. On completion of two years of service, his probation was also declared.

3.At the outset, the writ petitioner has hardly served about five years in the Transport Corporation. At this juncture, an order of transfer was issued in proceedings dated 15.03.2018, transferring the writ petitioner from Thiruvannamalai Branch to Cheyyaru Branch on administrative grounds.

4.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner is transferred from Thiruvannamalai Depot to Cheyyaru Depot based on the memo issued by one, Mr.Selvakumar, Checking Inspector, with an ulterior motive. The said memo resulted in the present impugned punitive transfer. No opportunity was provided to the writ petitioner in respect of allegations set out in the memo. The writ petitioner also submitted certain explanations and brought out certain incidences occurred in the Corporation. On account of such exposures, the petitioner is penalized by way of the present transfer order. Thus, the order impugned is punitive in nature and liable to be scrapped.

5.This Court is of the considered opinion that certain administrative incidences or certain memos issued on account of certain lapses and the explanations thereafter may also form a ground for issuance of administrative transfers by the competent authority. Thus, it is not as if an employee is to be transferred without any reason. In certain circumstances, the administrative transfers are issued on the ground that further continuance of a particular employee may not be preferable in a particular place or post. Such administrative decisions are taken by the competent authority, and the same must be taken in public interest and considering the factors, which all are necessarily to be considered. Thus, by citing certain incidences of issuance of memo, the writ petitioner cannot claim that it is a punitive transfer. One step further to avoid an order of suspension or initiation of disciplinary proceedings, transfer can also be used as an alternative method of running the administration efficiently. After all, the competent authorities has to consider the peaceful running of the public administration in order to serve the public at large. Therefore, the transfer cannot be construed as a punishment in all circumstances. Only, if the nature of the punitiveness is established, then alone, the Court can consider the same.

Issuance of administrative transfers are the prerogative of the competent authorities under the rules and the constitutional Courts cannot interfere with the day-to-day administration of the State or its organizations. However, such competent authorities are expected to exercise their power in a fair and reasonable manner. If any arbitrary or colourable exercise of power is established, then alone a writ proceedings can be entertained.

6.No writ can be entertained against an order of transfer and a judicial review against an order of transfer is limited. A writ against the order of transfer can be entertained only if the same was issued by an incompetent authority having no jurisdiction or an allegation of mala fides are raised or if the same is in violation of the statutory rules in force. Even in case of raising allegation of mala fides, the authority against whom such an allegation is raised is to be impleaded as a party in the writ proceedings in his personal capacity. In the absence of any one of the legal grounds, no writ can be entertained against the order of transfer in a routine manner.

7.The competent authorities are bound to maintain an efficient administration and the courts cannot interfere in the routine administration of the State. A public servant is expected to work wherever he is posted. After all, the public servants are duty bound to serve for the public in general and such administrative transfers, transferring the writ petitioner from Thiruvannamalai to Cheyyaru cannot be a point for interference. The transferred place in Cheyyaru is also within the same District of Thiruvannamalai and further, the writ petitioner being a driver, is getting a free travelling pass in Transport Corporation. Thus, there may not be any difficulty to serve in Cheyyaru.

8.Such being the factum of the case, this Court is of an opinion that the writ petitioner has not made out any ground for interference. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The General Manager,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Thiruvannamalai Region,
Thiruvannamalai.

2.The Branch Manager,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Thiruvannamalai Depot-II,
Thiruvannamalai.

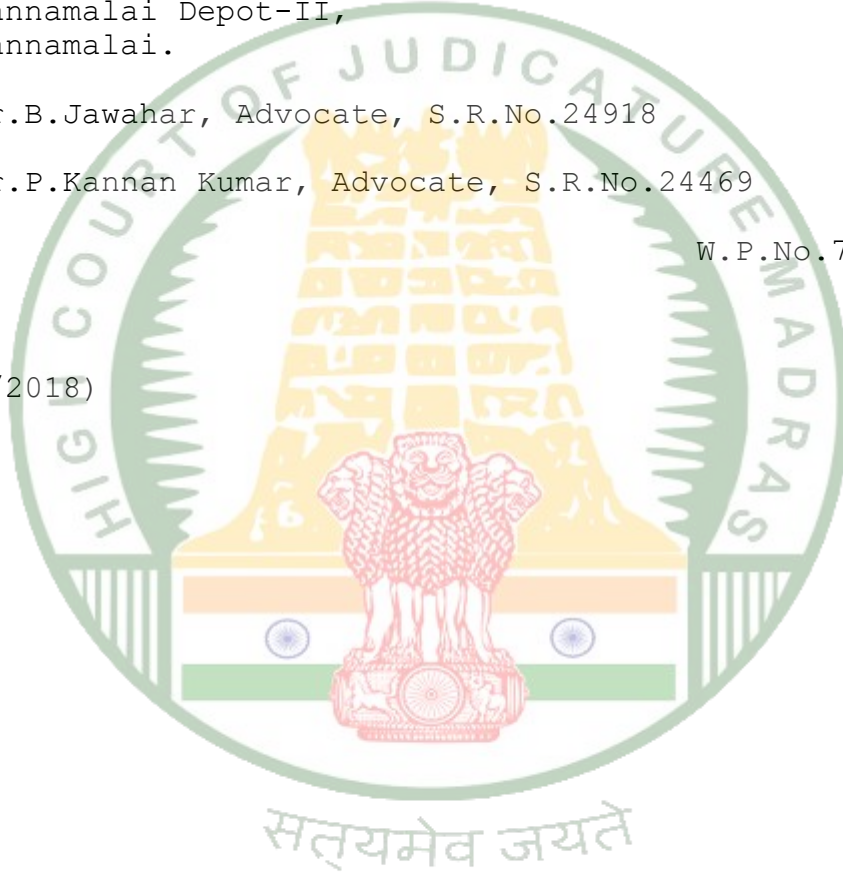
+1cc to Mr.B.Jawahar, Advocate, S.R.No.24918

+1cc to Mr.P.Kannan Kumar, Advocate, S.R.No.24469

W.P.No.7383 of 2018

SKS (CO)

RRK (25/04/2018)



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