

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.11.2018

Coram

The Hon'ble Mr.Justice Satrugana Pujahari

Writ Petition Nos.15130 and 15131 of 2018

and

W.M.P.Nos.17900 to 17903 of 2018

1. K. Senthilnathan ...Petitioner in W.P.No.15130 of 2018
2. C.Mohan ...Petitioner in W.P.No.15131 of 2018

Vs.

1. The General Manager,
(Operation and Administration)
The State Express Transport Corporation Ltd.,
Pallavan Salai, Chennai – 600 002.
2. The Regional Manager,
Madurai Taluk and District.
3. The Branch Manager, सतयमेव जयते
The State Express Transport Corporation Ltd.,
Nagapattinam, Nagapattinam District.
... R-1 to R-3 in both W.Ps.
4. The Branch Manager,
The State Express Transport Corporation Ltd
Trichy, Trichy District. ...R-4 in W.P.No.15130 of 2018
5. The Branch Manager,
The State Express Transport Corporation Ltd
Madurai, Madurai District. ...R-4 in W.P.No.15131 of 2018

Prayer in W.P.No.15130 of 2018

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records in relation to the order passed by the first respondent in Order No.16078/Ma.Va.4/A.Vi.Po.Ka.Tha.Naa/2015/4424 dated 28.05.2018 and subsequent relieving order issued by the third respondent in proceedings No.421/A3/A.Vi.Po.Ka.Nagai/18 dated 12.06.2018 and to quash the same and consequently, to direct the respondents to retain the petitioner in the State Express Transport Corporation Branch at Nagapattinam.

Prayer in W.P.No.15131 of 2018

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records in relation to the order passed by the first respondent in Order No.022344/Ma.Va.5/A.Vi.Po.Ka.Tha.Naa/2017/4423 dated 28.05.2018 and subsequent relieving order issued by the third respondent in proceedings No.423/A3/A.Vi.Po.Ka./Nagai/18 dated 12.06.2018 and to quash the same and consequently, to direct the respondents to retain the petitioner in the State Express Transport Corporation Branch at Nagapattinam.

For Petitioners in
both W.Ps.

: Mr.V.Kasinatha Bharathi

For Respondents
in both W.Ps.

: Mr.P.Kannan Kumar
Standing Counsel

COMMON ORDER

Heard, Mr.V.Kasinatha Bharathi, learned counsel appearing for the petitioners and Mr.P.Kannan Kumar, learned Standing Counsel appearing on behalf of the respondents. Since both the Writ Petitions are filed seeking for similar relief, they are taken up together and disposed of by this common order.

2. It appears that the petitioners are employee of the State Express Transport Corporation. The petitioner in first Writ Petition is a Driver and the petitioner in the second Writ Petition is Technical Assistant. While they were serving under the third respondent Corporation at Nagapattinam, they were transferred to work as such under the fourth respondent, vide impugned orders dated 28.05.2018. However, along with the petitioners, other one, viz., V.Ramesh, who is a Helper was also transferred on the same date.

3. The grievance of the petitioners is that the aforesaid transfer is tainted with *mala fide*, inasmuch as, they belonging to a rival Union and

having put some hoardings outside the Workshop, at the instance of the rival Union, they have been transferred. The same is more clear from the fact that the other person, i.e. the Helper, V.Ramesh, who was transferred along with the petitioners was immediately brought back to his earlier place when he changed his allegiance from the petitioners Union to the rival Union. Hence, the transfer being not for administrative reasons, but being actuated with *mala fide*, inasmuch as, they were engaged in Trade Union activities of a rival Union, the same as such, are liable to be quashed.

4. Counter affidavit has been filed not disputing the fact that the person, who was transferred with the petitioners was immediately brought back to his earlier place, though in his transfer, it was stated that it was on administrative reason. But the same has been justified on the ground that as he had made a representation expressing his family difficulties, he has been brought back. Therefore, the contention advanced in this regard appears to be devoid of merit, and the Writ Petitions are liable to be dismissed.

5. During the course of hearing, the learned counsel appearing for the petitioners drawing the notice of the Court to the aforesaid facts and

circumstances, submits that the transfer being mala fide and the same are liable to be quashed.

6. The learned Standing Counsel for the respondents, however, contested the same to be without any substance. But it is submitted that if the petitioners also makes representation, the same shall be considered.

7. It is not in dispute that the transfer of the petitioners is made on administrative reasons. In the counter affidavit filed, it is indicated that the petitioners have been transferred in the exigency of work, no doubt, subsequently, one of them, who had gone on transfer on the same reasons was also brought back, i.e. on the representation made by him, from the afore said fact, it appears to this Court that the contention advanced by the learned counsel appearing for the petitioners since they are engaged in the Union activities of a rival Union, as such, to harass them, they have been transferred, appears to have substance. However, during course of hearing, as it is submitted by the learned Standing Counsel for the respondent, Corporation indicating the fact that, if the petitioners also represents their case, the same shall be considered, this Court, without interfering with the

transfer orders, dispose of both the Writ Petitions giving liberty to the petitioners to file representation in this regard within ten days from the date of receipt of a copy of this order for cancellation of their transfer and if such representation is made, the same shall be considered as in the similar facts and circumstances, they have considered to re transfer of an employee, who was transferred along with the petitioners and pass necessary orders within two weeks of receipt of the same. It is made clear that, if the petitioners have not joined duty in the new place of posting, the interim order granted by this Court, dated 21.06.2018, by virtue of which, the respondents are restrained from proceeding against the petitioners for their non joining, shall continue to remain so till orders are passed based on such representation of the petitioners. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

सत्यमेव जयते

01.11.2018

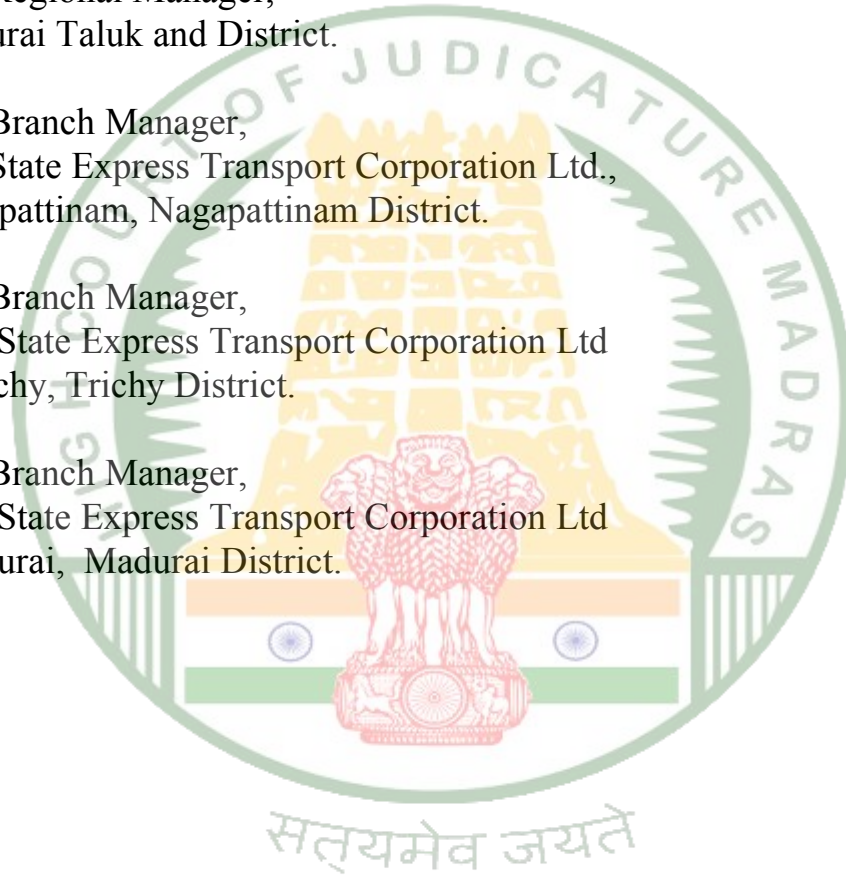
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Index : yes/no

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Satrughana Pujahari, J.,

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