

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.01.2018
CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.19324 of 2017

A.Jeevanandam

... Petitioner

Vs.

1.Managing Director,
Tamilnadu State Transport Corporation Ltd.
Vazhuda Raddy Salamedu,
Villupuram and District.

2.The Branch Manager,
Tamilnadu State Transport Corporation,
Ulundurpet Depot, Ulundurpet,
Villupuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in Ka.Ku.01/32351/NE/3/TNSTC(Villupuram)/2017 dated 29.06.2017 and quash the same and consequently revert the petitioner back to Ulundurpet Depot.

For Petitioner : M/s.R.Muralidharan

For Respondents : Mr.A.Antony Arockia Raja
Standing Counsel for R1 and R2

O R D E R

This Writ Petition is directed against the order of the second respondent dated 29.06.2017, transferring the petitioner from Ulunthurpet Depot to Chinna Salem, which is about 50 kms away from his present place of work.

2. The learned counsel for the petitioner, while assailing the impugned order, submitted that the respondents have passed the order of transfer with malafide intention to victimize the petitioner, as he is the President of Workers Union. The learned counsel for the petitioner further submitted that the petitioner, on earlier occasions, was subjected to various transfers viz., from Villupuram to Ulundurpet on 25.06.2011 and again transferred to Tindivanam on 04.02.2014 and from

Tindivanam to Villupuram on 07.08.2014 and again from Villupuram to Kallakurichi on 04.04.2015 and after serving for one year in Kallakurichi, he was transferred to Ulundurpet on 03.06.2016 and within one year, he has been again transferred to Chinna Salem, vide impugned order dated 29.06.2017, which shows that the petitioner has been frequently transferred. The learned counsel for the petitioner further submitted that the petitioner is a physically challenged person and on account of vindicating the grievances of the labourers as the President of Workers Union, he has been often transferred with malafide motive and therefore, prays for interference. The learned counsel for the petitioner also submitted that the petitioner has already joined duty in the transferred post.

3. Per contra, Mr.A.Antony Arockia Raja, learned Standing Counsel appearing for the respondents would submit that for having involved in fire accident that took place inside Ulundurpet Depot Office, the petitioner was already issued with a charge memo and only to conduct enquiry fairly, the petitioner has been transferred to Ulundurpet to Chinna Salem and moreover, exceptions to G.O.Ms.No.10, Personnel and Administrative Reforms (Personnel-S) Department dated 07.01.1994 clearly says that employee/Government servant can be transferred during the pendency of enquiry and therefore, the impugned order of transfer was passed only to facilitate the conducting of enquiry in an impartial manner, otherwise the petitioner would meddle with the witnesses.

4. In this context, it is relevant to extract Exceptions to the General Guidelines in G.O.Ms.No.10, P&AR Department dated 07.01.1994, more particularly Exception No.(III)(f):

"In cases where severe allegations are pending enquiry, when it is considered necessary in the public interest, and sufficient in lieu of suspension, that the officer may be transferred. In that case, transfer shall be effected to a vacant post in another station or to the post where the juniormost person of the same category is working."

In the light of above Exceptions to the General Guidelines in G.O.Ms.No.10, the order of transfer passed against the petitioner, in view of pendency of enquiry, cannot be found fault with and the reason being the petitioner has already facing enquiry at Ulundurpet Depot and being the President of the Workers Union, may even influence the Enquiry Officer and in that view of the matter, the petitioner has been rightly transferred.

5. This Writ Petition fails and accordingly dismissed. No costs.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

jvm

To

1.Managing Director,
Tamilnadu State Transport Corporation Ltd.
Vazhuda Raddy Salamedu,
Villupuram and District.

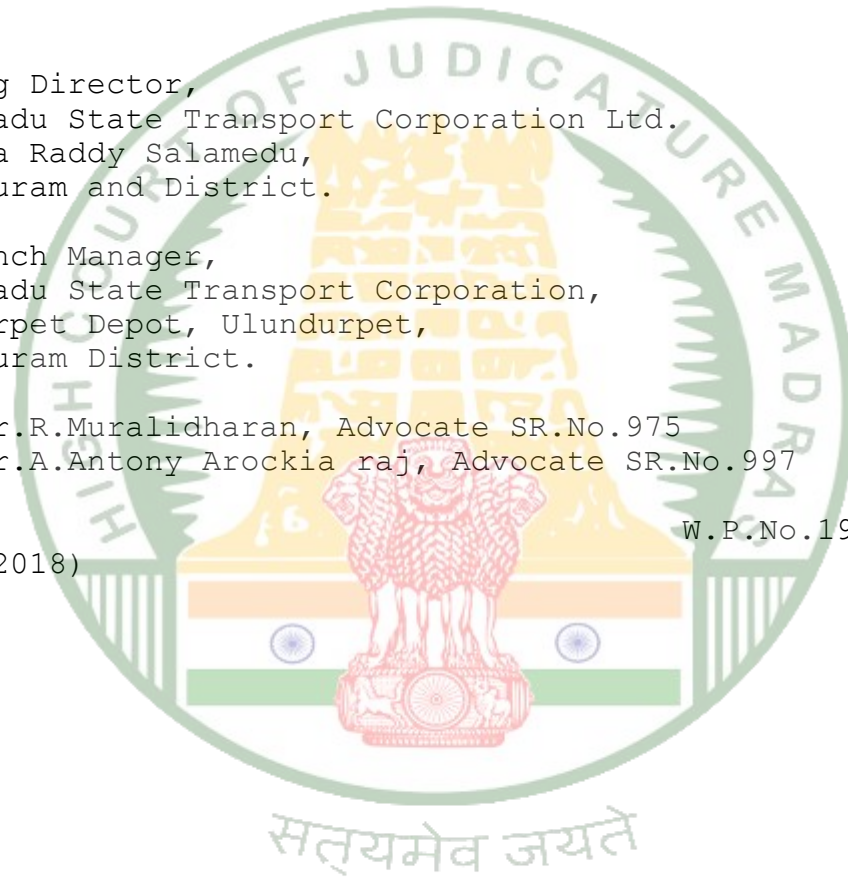
2.The Branch Manager,
Tamilnadu State Transport Corporation,
Ulundurpet Depot, Ulundurpet,
Villupuram District.

+lcc to Mr.R.Muralidharan, Advocate SR.No.975

+lcc to Mr.A.Antony Arockia raj, Advocate SR.No.997

W.P.No.19324 of 2017

GN(25/01/2018)



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