



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED: 01.11.2018**

CORAM

**THE HON'BLE MR.JUSTICE S.VAIDYANATHAN**

WEB COPY

**W.P.(MD) No.22323 of 2018**

**and**

**W.M.P(MD)No.20237 of 2018**

P.Mariyappan

... Petitioner

Vs.

1. The General Manager,  
Tamil Nadu State Transport Corporation,  
Tirunelveli division,  
KTC Nagar Central Office,  
Palayamkottai Road,  
Tirunelveli District.

2. The Branch Manager,  
Tamil Nadu State Transport Corporation,  
Tirunelveli division,  
KTC Nagar Central Office,  
Palayamkottai Road,  
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari calling for the records of the first respondent in Aa.A.No.12545/NeYa.2/TNSTC/Tr1/2018, dated 5.10.2018 and to quash the same.

For Petitioner : Mr.S.Thirumahilmaran

For Respondents : Mr.K.Sathiya Singh

Standing Counsel for TNSTC

**O R D E R**

This Writ Petition has been filed seeking to quash the impugned order of the first respondent in Aa.A.No.12545/NeYa.2/TNSTC/Tr1/2018, dated 5.10.2018

2.Mr.K.Sathiya Singh, learned Standing Counsel takes notice for the respondents. By consent of both parties, the main Writ Petition is taken up for final disposal at the stage of admission



3. According to the petitioner, he has been placed under suspension for more than one time and he has been subsequently revoked. That apart, departmental action is also initiated, which is pending. Further, it is contended that it is not a punitive transfer and it is an administrative transfer. The Supreme Court has categorically held in the case of **Ajay Kumar Choudhary .vs. Union of India through its Secretary and another reported in 2015 (3)CTC119** that the employee need not be retained under suspension for long and the suspension order has got to be reviewed once in six months, and if required, it can be recalled and the employee can be placed in a non sensitive post and that the departmental enquiry may go on, and the employee who was transferred shall not contend that it is a punitive transfer and knowing that he did not join in the transferable place, cannot contend and try to continue in the same place. If this contention is allowed, the employee may start to commit offence without any fear and stick on to the same place for over a decade and the purpose of running the institution will be defeated.

4. The Honourable Supreme Court in the case of **Addisons Paints and Chemicals Limited .vs. Workmen, represented by the Secretary (AP&C) Assistants' Association and another** reported in **(2001)2 SCC 289** has held as under:

*'6.....The employee Nagarajan had refused to accept the transfer order and refused to report for duty after his transfer. We see no substance in the contention that he was entitled not to join. In our view the dispute could have been raised and agitated even after joining. There was no justification for not reporting for duty. In spite of Nagarajan not having worked he has been awarded 25% of back wages. This was within the discretion of the Court and we see no reason to interfere. At the request of the Appellants in C.A. No. 392 of 1997, they are granted time of eight weeks from today to pay 25% of the back wages.*

*7. Accordingly, both the Appeals stand dismissed. There will be no Order as to costs.'*

5. In view of the above, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-  
Assistant Registrar(CO)

/True Copy/



To

1. The General Manager,  
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Tirunelveli Division,  
KTC Nagar Central Office,  
Palayamkottai Road,  
Tirunelveli District.

2. The Branch Manager,  
Tamil Nadu State Transport Corporation,  
Tirunelveli Division,  
KTC Nagar Central Office,  
Palayamkottai Road,  
Tirunelveli District.

+1 cc To Mr.K.Sathiya Singh, ADVOCATE IN SR NO.93812

+1 cc To Mr.S.Thirumahilmaran, ADVOCATE IN SR NO.93727

VSN

MK/ES/RSK/SAR 2/28.12.2018/3P/5C

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