



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P. (MD) No.3451 of 2013

and

M.P. (MD) No.1 of 2013

V.Malaichamy

... Petitioner

Vs.

The Management of
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Pudukottai Region,
represented by its General Manager,
Pudukottai.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the transfer dated 19.02.2013 of the respondent passed in Ref. TNSTC/Kumba/Pap1/267/13 transferring the petitioner from the Ponnamaravathi branch to Pattukottai branch of the respondent Corporation and quash the same.

For petitioner : Mr. S.Arunachalam
For Respondent : Mr.K.Sathiya Singh

O R D E R

The order of transfer dated 19.02.2013, transferring the writ petitioner from Ponnamaravathi to Pattukottai is under challenge in this writ petition.

2. The writ petitioner is employed as a Driver in the transport corporation. Further, the distance between Ponnamaravathi and Pattukottai is around 30 kms and situated in the same region. Thus there is no grievance for the writ petitioner in respect of the transfer. The writ petitioner states that he was subjected to transfer for the second time. Further he claims that the transfer order was issued on account of the registration of the criminal complaint against the Checking Inspector one Mr.Devasagayam. The petitioner states that he was transferred to a far of place from his residence and therefore the impugned transfer is to be quashed.

3. The learned counsel for the respondent states that the transfer was issued on administrative grounds and Para-5 of the counter statement reads as under.

"5. I submit that averments in para no.14 to 17, that the respondent corporation is having seven branches and operating large number of fleet services and owes series responsibility to service public in a safe and comfortable



manner. In order to carry out and to secure efficiency of service and in the interest of the administrative convenience of the employees have to be transferred from one place to another. The terms and service conditions and the nature of his appointment enable the respondent corporation to transfer the writ petitioner from one depot to another depot. Further the standing order of the amalgamated corporation provides the respondent management that every workman shall normally be liable to be transferred in the same category and grades therein within the province of the Corporation."

4. Transfer is an incidental to service and the writ petitioner has been transferred to a short distance and in the same region. Thus the grievance as stated in the affidavit filed in respect of the writ petitioner deserved no consideration at all.

5. Transfer is an incidental to service, more so, a condition of service. The Post or place can never be claimed as a matter of right, by the Government Servant. The competent authorities are empowered to decide the transfers in the interest of public administration and for efficient functioning of public administration.

6. The power of transfer is vested with the competent authorities, which cannot be questioned in a routine manner. Administrative transfers are to be abided by the employees and the writ can be entertained only on exceptional circumstances. No writ can be entertained against the order of transfer and the judicial review in this regard is to be exercised cautiously and a writ can be entertained if the order of transfer is issued by an incompetent authority, having no jurisdiction or allegation of malafides are raised or if it is in violation of the statutory rules in force. Even in case of raising the allegations of malafides, the authority against whom such allegations are raised has to be impleaded as party in the writ proceedings. In the absence of any one of this legal grounds, no writ petition can be entertained.

7. Accordingly, this writ petition stands dismissed, however no order to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

+1cc to M/S.K.SATHIYA SINGH, Advocate SR.No.49710.

ORDER MADE IN
W.P. (MD) No.3451 of 2013
19.02.2018