

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.04.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.24765 of 2018

and

W.P.Nos.28788 & 28789 of 2018

N.Shanmugasundaram

.. Petitioner

..Vs..

1.Tamil Nadu State Transport Corporation (Coimbatore ltd),
Coimbatore, Erode Division,
Chennimalai road,
Erode-1, Rep by its General Manager.

2.Tamil Nadu State Transport Corporation (Coimbatore ltd),
Coimbatore, Erode Division,
Rep by its Assistant Manager(Admin).

3.Tamil Nadu State Transport Corporation (Coimbatore ltd),
Coimbatore, Erode Division,
Sathyamangalam branch,
Rep by its Branch Manager/Section Officer.

4.Tamil Nadu State Transport Corporation (Coimbatore ltd),
Coimbatore, Erode Division,
Kodumudi branch,
Rep by its Branch Manager.

.. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, calling for the records pertaining to the impugned orders dated 01.09.2018 bearing Pa.no.1371/pil/pa pil/tha A Poka/Ko/ema/18 passed by the 2nd respondent and the consequential order dated 06.09.2018 passed by the 3rd respondent which were served on petitioner on 08.09.2018 and quash the same and consequently directing the respondent herein to permit petitioner to peacefully continue petitioner's service as conductor in 3rd respondent depot.

For Petitioner	: Mr.V.P.K.Gowtham
For Respondents	: Mr.P.Kannankumar, Standing Counsel

O R D E R

The order of transfer issued by the respondent in proceedings dated 01.09.2018, transferring the writ petitioner from Sathyamangalam Branch to Kodumudi Branch, Erode Division is under challenge in the present writ petition.

2. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner is working as a Conductor in the respondent Transport Corporation. The petitioner states that, he is office bearer of the prominent political party in Tamil Nadu namely Amma Makkal Munnetra Kalzaham, in Sathyamangalam and the petitioner along with others formed a new Trade Union in the name and style of "Amma Makkal Anna Tholitchangam". In view of the fact that the writ petitioner formed a new Trade Union, the officials have taken some personal vengeance and transferred the writ petitioner from Sathyamangalam Branch to Kodumudi Branch.

3. As far as the allegations of personal vengeance is concerned, this Court is of an opinion that the mere allegation is not sufficient to establish a mala fide intention on the part of the respondents. An Office Bearer of a Trade Union is not exempted from the Administrative Transfers. Thus, the allegations stated by way of an affidavit without any evidences cannot be relied upon, so as to consider the ground of mala fide against the Competent Authorities.

4. No writ proceedings can be entertained against an order of transfer in a routine manner. The judicial review against the order of transfer is certainly limited. A writ proceedings against an order of transfer can be entertained, if the same has been issued by an authority having no jurisdiction or competency or if an allegation of malafides are raised or if the same is in violation of the statutory rules in force. Even in case of raising an allegation of malafides, the authorities against whom such an allegation is raised, to be impleaded as party respondent in his personal capacity in the writ proceedings. In the absence of any one of these legal ground, no writ proceedings can be entertained against the order of transfer in a routine manner.

5. Transfer is an incidental to service, more so a condition of service. In the present case on hand, the impugned order states that the writ petitioner is transferred from Sathyamangalam Branch to Kodumudi Branch on administrative grounds. Thus, mere allegation by stating that the writ petitioner is an office bearer of the prominent political party in Tamil Nadu namely Amma Makkal Munnetra Kalzaham and formed a new Trade Union would not be sufficient allegation against the

Authorities concerned and further the Authority concerned has not been impleaded in the present writ petition in his personal capacity.

6. This Court is of an opinion that transfers can be issued on various grounds. On a perusal of the impugned transfer order, it is stated that the writ petitioner is transferred on administrative ground and in the interest of administration. Transfers are imminent in respect of public servants, whenever there is a wide complaint against the employee is made known to the competent authorities. In certain circumstances, there may not be an evidence to prosecute the employee or to initiate departmental disciplinary proceedings. However, the competent authorities may of the opinion that further continuance of a public servant in a particular place would cause inconvenience as well as cause some difficult situation for the peaceful functioning of the public administration. Thus, in those circumstances, transfers alone are the remedies in the interest of public administration. Therefore, it is not necessary that there must be a transfer only after conducting an enquiry or initiation of disciplinary proceedings.

7. Administrative transfers are issued on various circumstances and on various grounds. For instance, continuance of certain public servants in a particular post, may not be conducive for the peaceful administration or their further continuance may cause certain troubles to the people, who all are the beneficiaries in the Department. There are various such administrative aspects, which all are the reasons for the administrative transfers. Courts would not be in a position to scrutinize or conduct an enquiry in respect of those reasons for such issuance of the administrative transfers.

8. Administrative transfers are the prerogative of the Department concerned and the competent authorities are the best persons to assess and act accordingly. However, those competent authorities should act in the interest of public and in the event of any illegality or some personal motive, then alone, the employee can approach the Court of law for appropriate remedy. In other words, if an order of transfer is issued with a mala fide intention or in violation of the statutory rules, then a writ petition can be entertained. Even in such cases, the allegation of mala fide intention must be substantiated in the writ proceedings and the official concerned must be impleaded as party respondents in the writ proceedings. In the absence of any such legal ground, routine administrative transfers can never be interfered with by the Constitutional Courts. Transfer is an incidental to service, more so, a condition of service. Public servant is liable to work wherever he is posted in the interest of public administration. On accepting the offer of

appointment, a person is agreeing for the conditions of service and transfer being incidental, he must be in a position to work, wherever he is posted.

9. Place or post can never be claimed as a matter of choice by the public servants. All public servants are duty bound to perform their duties diligently and with utmost care and devotion. This being the basic principles to be followed and erosion in this regard can never be tolerated either by the officials or by the Courts. High Court cannot interfere with the routine administration of the State or its organization. In the event of such routine interference in administration, more specifically, in transfer cases, the very discipline and the functioning of the administration would be paralyzed. Thus, the judicial review of administrative transfers must be exercised with restraint and only on exceptional circumstances, such orders of transfers can be interfered with by the High Courts and not otherwise. This being the scope of the judicial review of administrative transfers issued by the competent authorities, this Court is of an undoubted opinion that the writ petitioner has not established any such strong acceptable ground for the purpose of interference in the order of transfer.

10. In view of the facts and circumstances of the case, the writ petitioner has not established any acceptable ground for the purpose of considering the relief as such sought for in the present writ petition. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

To

1. The General Manager,
Tamil Nadu State Transport Corporation (Coimbatore ltd),
Coimbatore, Erode Division,
Chennimalai road,
Erode-1.

2.The Assistant Manager(Admin),
Tamil Nadu State Transport Corporation (Coimbatore ltd),
Coimbatore, Erode Division,

3.The Branch Manager/Section Officer,
Tamil Nadu State Transport Corporation (Coimbatore ltd),
Coimbatore, Erode Division,
Sathyamangalam branch,

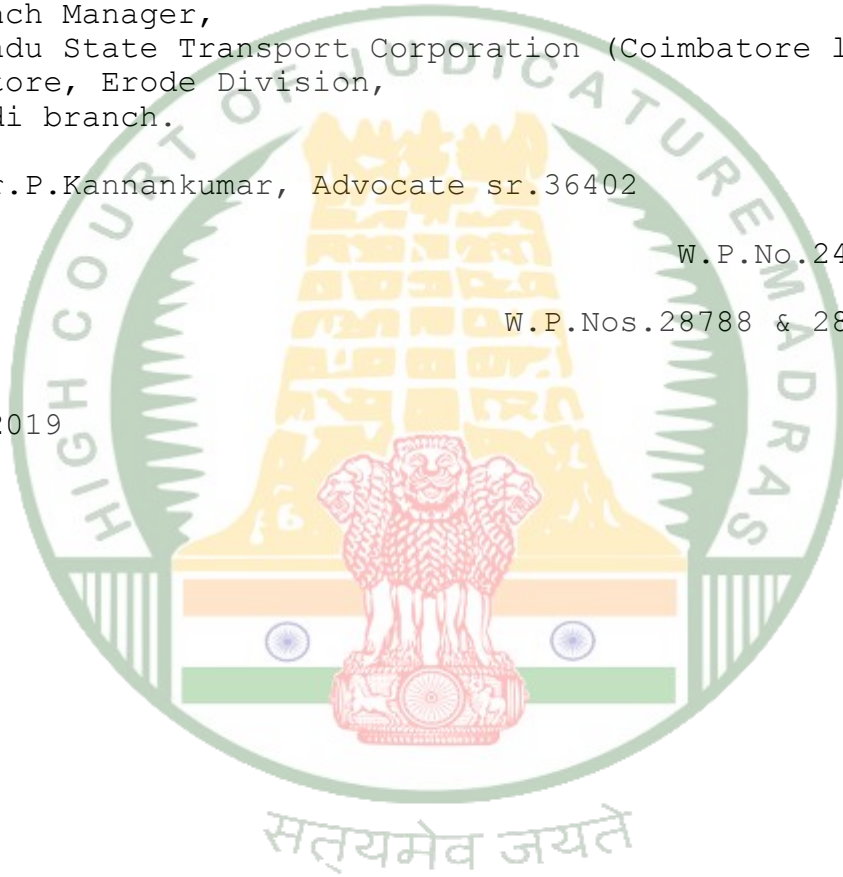
4.The Branch Manager,
Tamil Nadu State Transport Corporation (Coimbatore ltd),
Coimbatore, Erode Division,
Kodumudi branch.

+1cc to Mr.P.Kannankumar, Advocate sr.36402

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nr 10/04/2019



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