

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :28.03.2019
CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos. 28014, 28023, 28029, 28038

28044, 28053 & 28055 of 2018

&

W.M.P.Nos. 32592, 32609, 32620, 32639

32648, 32672 & 32678 of 2018

In W.P.No. 28014 of 2018

K.Mahendran	.. Petitioner	in WP.NO.28014/18
S.Mohan	.. Petitioner	in WP.NO.28023/18
A.Thiruvelu	.. Petitioner	in WP.NO.28029/18
T.P.Kamaraj	.. Petitioner	in WP.NO.28038/18
M.Kannan	.. Petitioner	in WP.NO.28044/18
P.Selvakumar	.. Petitioner	in WP.NO.28053/18
D.Albert Joel	.. Petitioner	in WP.NO.28055/18

..vs..

The Senior Deputy Manager,
(Human Resource Development),
Metropolitan Transport Corporation,
Pallavan Salai, Anna Salai,
Chennai - 600 002. ..Respondent in all WPs

Prayer in W.P.No. 28014 of 2018: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the respondent in Memo No.26043 and 26044/Pa.Pi (Po)3/Ma.Po.Ka/2018 dated 12/10/2018 and quash the same.

For Petitioners in all WPs : Mr.S.Nedunchezhiyan
For Respondents in all Wps : M/s.Rajeni Ramadoss

COMMON ORDER

The order of transfer issued by the respondent transferring the writ petitioners from one depot to another depot within the city limits are under challenge in these writ petitions.

2. The learned counsel for the writ petitioners states that, the impugned order of transfers are issued with mala fide intention and on account of the involvement of the writ petitioners in Trade Union activities. Thus, the orders of transfer are liable to be scrapped. The learned counsel for the writ petitioner further states that, the

writ petitioners are penalized on account of the fact that, they have involved in Trade Union activities. The impugned order of transfer is politically motivated and therefore, the same are untenable.

3. The learned counsel appearing on behalf of the respondent disputes the contention raised by the writ petitioners by stating that the transfer orders are issued on administrative grounds. This apart, the writ petitioners are transferred from one depot to another depot within the City limits and their service conditions or their normal life is not affected on account of such transfers. Administrative transfers are issued by the respondent Management in order to maintain efficient administration, if a trouble in some depots are noticed on account of certain events or instance, then the Authorities Competent are bound to effect transfers to maintain the decorum in the bus depot and for effective administration. Thus, the impugned order of transfers are administrative in nature not affecting service conditions of the writ petitioners and therefore, the writ petitions are liable to be rejected.

4. Though the learned counsel for the writ petitioners states that the impugned order of transfers are issued on mala fide intention, the averments made in the affidavit filed in support of the present writ petitions are not sufficient to arrive a conclusion that the impugned orders are issued with mala fide intention. The allegations of the mala fides raised against the Authority is not specific and further, those Authorities are not impleaded as party respondent in the writ petitions in their personal capacity. In the absence of impleading all those officials against whom allegations are made, the mere allegations cannot be considered for the purpose of assailing the order of administrative transfers.

5. This apart, the writ petitioners are transferred from one depot to another depot within the City limits. Thus, the same would not cause any inconvenience or otherwise to the routine life of the writ petitioners who all are working as Drivers and Conductors.

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 petitioners are transferred on administrative grounds and in the interest of administration. This apart, the writ petitioner is transferred from one depot to another depot within the City limits. 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. This being the factum, placed before this Court, the writ petitioners have not established any acceptable ground for the purpose of interfering in the order of transfers. Accordingly, the writ petitions stands dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS iv)

//True Copy//

Sub Assistant Registrar

Pns

To

The Senior Deputy Manager,
(Human Resource Development),
Metropolitan Transport Corporation,
Pallavan Salai, Anna Salai,
Chennai - 600 002.

+lcc to Mr.G.Sankaran, Advocate SR.No. 30210

+lcc to M/s.Rajeni Ramadoss , Advocate SR.No. 30841

W.P.Nos. 28014, 28023, 28029, 28038
28044, 28053 & 28055 of 2018 &
W.M.P.Nos. 32592, 32609, 32620, 32639
32648, 32672 & 32678 of 2018

A.SK(07/05/2019)