

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2019

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.32881 of 2018
and W.M.P.No.38097 of 2018

C.Balachander

Vs

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Petitioner

1.The State of Tamil Nadu
rep.by its Secretary to Government
Transport Department, Secretariat
Fort St.Goerge, Chennai 600 009.

2.The Chairman, The Tamil Nadu State
Transport Corporation, Secretariat
Chennai 600 009.

3.The Managing Director, The Tamil Nadu
State Transport Corporation (Coimbatore)
Limited, Head Office, No37, Mettupalayam
Road, Coimbatore - 641 043.

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Respondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari
calling for the records relating to the proceedings of the third
respondent in 2860/E3/PD-1/TNSTC/CBE/2018 dated 15.11.2018 and
quash the same.

For Petitioners

:

M/s, R.Gouri

For Respondent

:

Mr.R.S.Selvam, Government Advocate

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O R D E R

The impugned order of transfer is under challenge on the
ground that it is a malafide transfer. The petitioner joined the
services of the respondent corporation during the year 1993 as
trainee and his services were regularised and he was promoted as
Assistant Engineer in the year 2000. Later on the petitioner was
conferred with selection grade and is discharging the functions

of Senior Assistant Engineer (Selection Grade) and his present station of work is at FC Unit and Spring Plant, Ooty. The petitioner is being repeatedly transferred by the third respondent under the pretext of administrative grounds, which is under challenge. The last transfer is for a period of two months from September 2018 to November 2018. The petitioner has been transferred from Udhagamandalam to Kotagiri branch during November 2018. This transfer order is under challenge.

2. Learned counsel for the petitioner assails the order of transfers stating that the transfers have been very frequent and the same is malafide.

3. Learned counsel for the respondent submits that the activities of the petitioner is against the trade union and hence the petitioner is transferred.

4. The Honourable Supreme Court and various high Courts have, in various decisions has time and again held as follows,

"Transfer orders can be set-aside if passed in violation of statutory rules, on considerations of malafide or for infraction of any professed norms or methods governing transfers. The powers of transfer has to be exercised honestly and in a bona fide manner. If the transfer is based on extraneous consideration or for achieving an oblique motive, it would be malafide and in colourable exercise of power. Frequent and unscheduled transfers without sufficient justification have to be construed as malafide. Such transfers have to be deprecated as they can result in extreme hardship and demoralisation."

5. In the present case on hand, if the activities of the petitioner are against the trade union, it is open for the respondents to initiate suitable departmental actions and punish him in accordance with the rules and regulations governing the same. Frequent transfers of the employee cannot be a tool to curb the activities of the employee which are against the interests of the employer.

6. Accordingly, the the impugned order dated 15.11.2018 is quashed and the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

kst

TO

1.The Chairman, The Tamil Nadu State
Transport Corporation, Secretariat
Chennai 600 009.

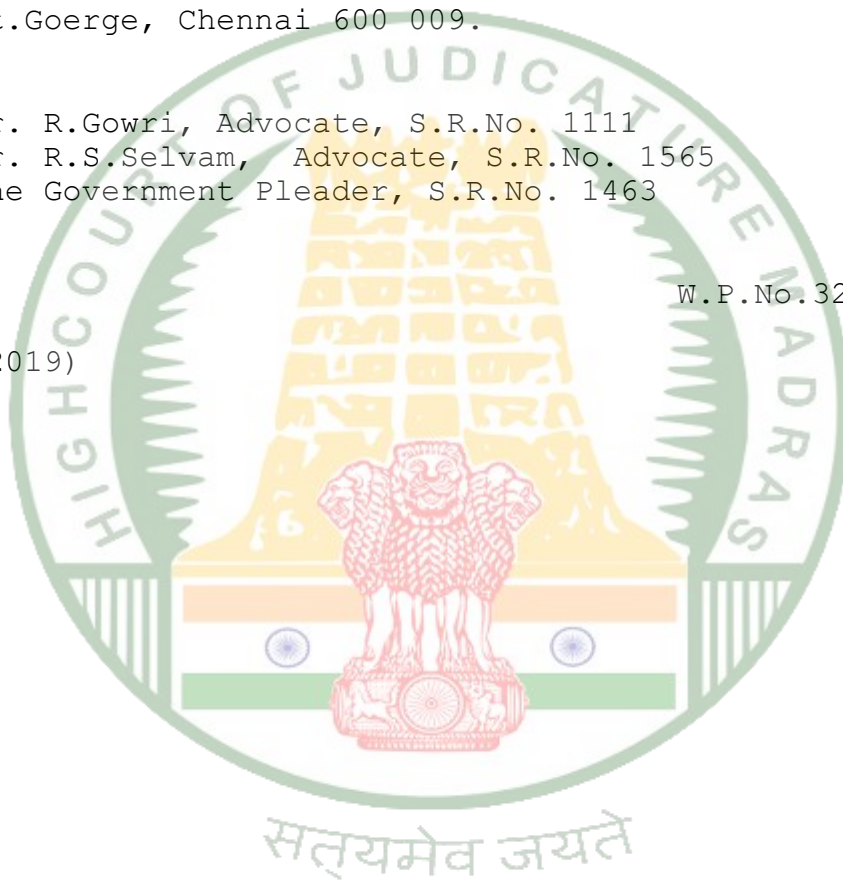
2.The Managing Director, The Tamil Nadu
State Transport Corporation,
Mettupalayam Road, Coimbatore - 641 043.

1.The Secretary to Government
Transport Department,
Fort St.George, Chennai 600 009.

+1cc to Mr. R.Gowri, Advocate, S.R.No. 1111
+1cc to Mr. R.S.Selvam, Advocate, S.R.No. 1565
+1cc to the Government Pleader, S.R.No. 1463

W.P.No.32881 of 2018

GN(04/02/2019)



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