



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.5559 of 2013

and

M.P. (MD) .Nos.1 and 2 of 2013

M.Sannasi

... Petitioner

Vs.

1. The General Manager,
Tamil Nadu State Transport
Corporation (Madurai) Ltd (TNSTC)
Dindigul Region,
Dindigul.

2. The Branch Manager,
Bodi Branch,
Tamil Nadu State Transport
Corporation (Madurai) Ltd (TNSTC)
Dindigul Region, Dindigul District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings issued by the 1st respondent General Manager, vide ref: admn : p1 : 1340 dated 12.03.2013 and by the 2nd respondent Branch Manager vide Ref.011 dated 02.04.2013 (received on 03.04.2013) and transferring and relieving the petitioner to Palani Branch with immediate effect within a short period of 2 and a half months from the date of the earlier transfer, quash the same.

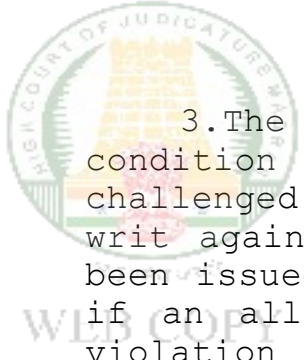
For Petitioner : Mr.M.Maharaja

For R1 and R2 : Mr.A.Jeyaram

ORDER

The order of transfer transferring the writ petitioner from Bodi Branch to Palani Branch on administrative reason is under challenge in the present writ petition.

2.Admittedly, the order of impugned transfer was issued in proceedings dated 12.03.2013 and at the time of admission of the writ petition, an order of interim stay was granted and the writ petitioner is continuing in the same station for the past more than 6 ½ years, on account of the pendency of the present writ petition. This apart, even prior to the filing of the writ petition, the writ petitioner was continuing in Bodi Branch.



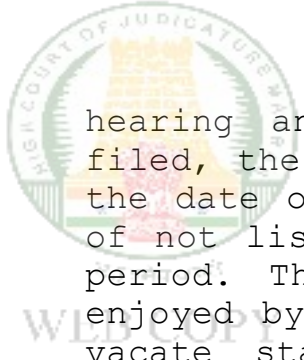
3.The transfer is an incidental to service, more so, a condition of service. An order of administrative transfer can be challenged on limited grounds. The High Court can entertain the writ against an order of transfer, if the order of transfer has been issued by an incompetent authority having no jurisdiction or if an allegation of malpractice are raised or if the same is violation of statutory rules in force. Thus, the judicial review against the order of transfer is limited and the High Court would not entertain the writ petition relating to the order of transfer in a routine manner.

4.A public servant is liable to work wherever he is posted. Post or place can never be claimed as a matter of choice by a public servant. Thus, an order of transfer can be interfered with only on certain exceptional circumstances and not in a routine manner.

5.The High Court would not interfere with the routine administration of the Government Departments as well as the Transport Corporation. Administrative transfers are issued on various circumstances, if frequent complaints are received against an employee, the authorities competent is effective transfers on administrative reasons. This apart, in lieu of suspension, transfer can be issued for effective and efficient public administration. Thus, it cannot be defined that the administrative transfers sought to be issued only on certain circumstances alone. Ultimately, it is duty mandatory on the part of the competent authority to ensure efficient and effective public administration. Thus, such orders of transfer issued on administrative reasons cannot be interfered with in a routine manner and the High Court has to exercise its power in a restricted manner in such administrative transfers.

6.The writ petitioner, who was holding a post of Driver had already served in the Bodi Branch for more than 6 ½ years by virtue of the interim order granted in the present writ petition.

7.The learned counsel for the respondent states that the vacate stay petition in M.P.(MD).No.2 of 2013 was filed on 01.10.2013. It is unfortunate that the vacate stay petition numbered was not even listed once for hearing. Further, the learned counsel for the respondents states that the respondents had not initiated any steps to list the vacate stay petition for hearing. Such a situation is most unfortunate when the respondents had filed a petition to vacate the stay, the same is to be moved for hearing and the High Court also had not listed the matter atleast once for hearing. Even after the issuance of direction to list all the vacate stay petitions, the same are not listed for hearing. If such a situation continues, undoubtedly, the same will cause prejudice to the public administration. Once the interim stay is granted, the matters are to be listed for further



hearing and more importantly, if the vacate stay petition is filed, the same is to be listed within a period of two weeks from the date of numbering of the vacate stay petition. In the event of not listing the matter, the stay continues for an unspecified period. The benefits of the interim stay are unnecessarily be enjoyed by the parties without any jurisdiction. Hearing of such vacate stay petitions are of paramount importance and the Registry also should ensure that all such vacate stay petitions numbered are listed without causing any delay. The counsel for the respondents/Government Pleaders must also ensure that the vacate stay petition filed are listed promptly by the Registry.

8.As far as the present writ petition is concerned, the writ petitioner has already continued in the same station for more than 6 ½ years and even as per the transfer also, he is eligible to continue for a period of three years. Under these circumstances, further continuance of the writ petitioner in the same place is not preferable and it is for the respondents to consider the facts and circumstances and issue transfer order, if necessary in the interest of administration.

9.With these observations, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The General Manager,
Tamil Nadu State Transport
Corporation (Madurai) Ltd (TNSTC)
Dindigul Region,Dindigul.
2. The Branch Manager,
Bodi Branch,
Tamil Nadu State Transport
Corporation (Madurai) Ltd (TNSTC)
Dindigul Region, Dindigul District.

+ 1 CC TO Mr.M.Maharaja, ADVOCATE IN SR No.67980

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