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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2021

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.3000 of 2020
and
W.M.P.Nos.3496, 3499 of 2020

P.Elangovan

...Petitioner

vs.

1. The General Manager,
Tamil Nadu State Transport Corporation
Limited- Salem, Charmapuri Division,
Salem.

2. The Branch Manager, Tamil Nadu Stte Transport
Corporation Limited - Salem,
Dharmapuri Division, Uthankarai Branch,
Uthankarai Taluk, Krishnagiri District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 18.01.2020 made in No.Pani2/5110/TNSTC/Dharmapuri/2020 passed by the first respondent and to quash the same and consequently direct the respondents to permit the petitioner to join at the office of the second respondent with all monetary and service benefits and to pass orders.

For Petitioner : Mr.N.Anand

For Respondents: Mr.A.Sundaravadhanam,
Standing Counsel

O R D E R

This writ petition has been filed seeking to issue a Writ of Certiorarified Mandamus, quashing the impugned transfer order dated 18.01.2020 and to direct respondents to permit the petitioner to join at the office of the second respondent with all monitory and service benefits.

2. The case of the petitioner in brief:



The petitioner is working as Assistant Engineer under the respondent Corporation and he was suspended from service by order dated 23.09.2019 by the first respondent. Thereafter, he submitted his explanation and he was reinstated into service and he was directed to work at the second respondent office. Again, the first respondent sent a letter to call for explanation about the proposal of initiating departmental enquiry. Though the petitioner submitted his explanation, the impugned transfer order passed, transferring him from Uthankarai to Krishnagiri, which is 90 k.m. away from his residence. Hence this writ petition.

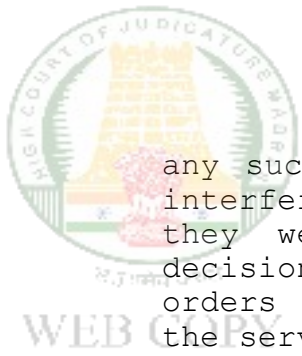
3. The contentions raised in the counter affidavit in brief:

On 18.09.2019, the petitioner was allotted to perform shift duty from 2.00 p.m. to 10.00 p.m. After performing duty for an hour, the petitioner absconded from the depot, without any prior permission or intimation. In the explanation, he had informed that he was not well, but not produced any medical certificate. Hence, show cause notice was issued. During his short tenure of service, he was punished 33 times for his misconduct with warning, fine. Due to administrative reason only, he was transferred and Krishnagiri which is away 50 k.m. only from Uthangari and there is no mala fide intention to transfer him. Hence the writ petition is liable to be dismissed.

4. Heard the counsel appearing for the petitioner and the learned standing counsel appearing for the respondents.

5. In the counter affidavit, the punishments imposed on the petitioner on previous occasions are stated in detail under tabular column. It is the contention of the respondents that the petitioner is holding a responsible position of supervising the whole depot, however, he was improper in maintaining and supervising the vehicles and depot. Further, due to administrative reason only, the petitioner has been transferred and Krishnagiri is only 50 k.m. away from Uthankarai and the petitioner is also providing with free pass to travel in the transport corporation buses. A perusal of the counter affidavit shows that from the year 2011 to 2019, the petitioner was punished 33 times and two disciplinary proceedings are pending. It is the contention of the respondents that the petitioner has not done his work properly in supervising and maintaining the depot and vehicles and therefore, the order of transfer is issued only on administrative grounds.

6. At this juncture, it is pertinent to note that in State of U.P. and others vs. Siya Ram and others [(2004) 7 SCC 405], the Honourable Supreme Court has held that unless the order of transfer is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provisions prohibiting



any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employer / management, as against such orders passed in the interest of administrative exigencies of the service concerned.

7.Further, in *Airports Authority of India v. Rajeev Ratan Pandey and others* [(2009) 8 SCC 337], the Honourable Supreme Court has held that in the matter of transferring Government employees, the scope of judicial review is limited and the High Courts should not interfere with an order of transfer lightly.

8.In the instant case, on perusal of the materials available on records, this Court does not find any mala fide exercise or violation of any statutory provision on the part of the respondents and therefore, the impugned transfer order do not warrant any interference of this Court. However, considering the difficulties expressed by the petitioner, it is for him to make representation before the respondent seeking transfer.

9.It appears that, due to the Order of Stay granted by this court, the petitioner is continuing his service at Uthankari for all these months. Therefore, this court is of the view that the petitioner can continue the same place till the month of April 2022 and thereafter, the impugned transfer order can be given effect to. In the meantime, if the respondents received any representation from the petitioner, they may consider the same and pass orders in accordance with law.

10.With the above observations, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

mst

To

1. The General Manager,
Tamil Nadu State Transport Corporation
Limited- Salem, Charmapuri Division,
Salem.



2. The Branch Manager, Tamil Nadu State Transport Corporation Limited - Salem,
Dharmapuri Division, Uthankarai Branch,
Uthankarai Taluk, Krishnagiri District.

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+1cc to M/s.A.Sundaravadhanan, Advocate, S.R.No.16785

+1cc to M/s.N.Anand, Advocate, S.R.No.16872

W.P.No.3000 of 2020
W.M.P.Nos.3496, 3499 of 2020

PMK (CO)
RGA (23/03/2022)