

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.Nos.11490, 11493, 11494 & 11497 of 2020
and WMP.Nos.14032, 14033, 14036, 14037, 14041,
14042, 14045 & 14047 of 2020

S.Boobalan	..Petitioner in W.P.No.11490 of 2020
K.Ramamurthy	..Petitioner in W.P.No.11493 of 2020
R.Sakthivel	..Petitioner in W.P.No.11494 of 2020
D.Saravanakumar	..Petitioner in W.P.No.11497 of 2020

vs.

1. Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Rep. By its Managing Director,
37, Mettupalayam Road,
Coimbatore-43.
 2. The General Manager,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
37, Mettupalayam Road,
Coimbatore-43.
 3. The Branch Manager,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Mettupalayam Branch,
Coimbatore.
- ..Respondents

Prayer in 11490 of 2020: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 10.08.2020 passed by the second respondent in Ref.No.2728/E3E/PaThul/TNSTC (Ko)/2020, transferring the petitioner from Mettupalayam Depot-I to Ukkadam Depot-1 and the relieving order No.16158 dated 11.08.2020 issued by the 3rd respondent, quash the same and consequently, direct the respondents to retain the petitioner in Mettupalayam Depot-I and to restore his 19 days medical and earned leave which was adjusted from his leave account and to refund the fine of Rs.500/- which has been deduced from his salary for July 2020 and to pay him monthly salary without adjusting any of his leave standing to the credit of his leave account, award costs.

Prayer in 11493 of 2020: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 10.08.2020 passed by the second respondent in Ref.No.2727/E3E/PaThul/TNSTC (Ko)/2020, transferring the petitioner from Mettupalayam Depot-I to Sulur Depot and the relieving order No.16173 dated 11.08.2020 issued by the 3rd respondent, quash the same and consequently, direct the respondents to retain the petitioner in Mettupalayam Depot-I and to restore his 21 days medical and earned leave which was adjusted from his leave account and to refund the fine of Rs.500/- which has been deduced from his salary for July 2020 and to pay him monthly salary without adjusting any of his leave standing to the credit of his leave account, award costs.

Prayer in 11494 of 2020: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 10.08.2020 passed by the second respondent in Ref.No.2726/E3E/PaThul/TNSTC (Ko)/2020, transferring the petitioner from Mettupalayam Depot-I to Sungam-2 and the relieving order No.16161 dated 11.08.2020 issued by the 3rd respondent, quash the same and consequently, direct the respondents to retain the petitioner in Mettupalayam Depot-I and to restore his 19 days medical and earned leave which was adjusted from his leave account and to refund the fine of Rs.500/- which has been deduced from his salary for July 2020 and to pay him monthly salary without adjusting any of his leave standing to the credit of his leave account, award costs.

Prayer in 11497 of 2020: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 10.08.2020 passed by the second respondent in Ref.No.2729/E3E/PaThul/TNSTC (Ko)/2020, transferring the petitioner from Mettupalayam Depot-I to Ukkadam-II and the relieving order No.16153 dated 11.08.2020 issued by the 3rd respondent, quash the same and consequently, direct the respondents to retain the petitioner in Mettupalayam Depot-I and to restore his 18 days medical and earned leave which was adjusted from his leave account and to pay him monthly salary without adjusting any of his leave standing to the credit of his leave account, award costs.

For Petitioner : Mr.V.Ajay Khose
In all W.Ps.

For Respondents : Mr.A.Sundaravadanan
Standing Counsel for
Transport Corporation

COMMON ORDER

Challenge in these writ petitions is to the impugned order of transfer passed by the second respondent dated 10.08.2020, transferring the petitioners from Mettupalayam Depot-I to Ukkadam Depot-I, Sulur Depot, Sungam-2 Depot and Ukkadam-II Depot respectively.

2. According to the petitioners, transport services were not allowed to be operated during the entire lock down period in Chennai and surrounding districts on account of Covid-19 pandemic and the Government of Tamil Nadu has permitted operation of passengers transport services in the rest of areas in the State, by all the State Transport Corporation during and between the period from 01.05.2020 to 30.06.2020. In pursuant to the general orders issued by the Central and State Governments regarding the SOPs to be followed by each sector, the Secretary to Government, Transport Department has also issued a Circular dated 17.04.2020 and vide order dated 06.05.2020 had notified the SOPs to be followed by the Corporations, staff and other public/passengers. The respondents have not followed the SOPs and therefore, the petitioners Union lodged a complaint dated 02.07.2020 to the Secretary, Health and Family Welfare Department and to the District Collector, Coimbatore and requested them to take appropriate action for violation of SOPs to be followed during Covid-19 pandemic, which are issued under the Disaster Management Act, 2005.

3. Though the petitioners have attended duty on all the days on which he was called for and allotted work, instead of giving them attendance, the respondents have adjusted their medical leave and earned leave from the leave account and in this regard, the petitioners have submitted a representation dated 09.08.2020 to the first respondent, requesting to credit the medical and earned leave already adjusted and in pursuant to the same, the second respondent has passed the impugned transfer orders. Challenging the same, the petitioners have filed the present writ petitions.

4. The matter was listed for admission on 25.08.2020 and this Court has granted interim stay of the operation of the transfer orders. By virtue of the interim orders, the petitioners continued to work in the Mettupalayam Depot. Now the matter has been listed after a lapse of two years.

5. Heard the learned counsel for the parties and also perused the materials on record.

6. Admittedly, the petitioners were transferred from Mettupalayam Depot-I to Ukkadam Depot-I, Sulur Depot, Sungam-2 Depot and Ukkadam-II Depot respectively during the month of August, 2020 and during the said period, there is a specific bar for transferring the Government employees from one station

to another. In the counter affidavit, it has been stated by the second respondent that as per G.O.Ms.No.262 dated 31.05.2020, the Government permitted public transport to function at 50% fleet strength for operation of buses followed by SOPs and as per the instructions from the Government and from the first respondent, the third respondent made arrangements of all safety measures in depot.

7. Prima facie it appears that the transfer orders have been passed in undue haste in order to wreak vengeance on the petitioners for having submitted the complaint dated 02.07.2020 to the Secretary, Health and Family Welfare Department and the District Collector, Coimbatore for violation of SOPs. Moreover, it appears that the authority, who signed the impugned orders, is not the competent authority to effect transfer in respect of the petitioners. In the counter affidavit, there is no whisper with regard to competency of the authority who passed the transfer order. The petitioners, by virtue of the interim order granted by this Court, were allowed to be retained in the same station at Mettupalayam Depot-I for the past two years and the respondents have not taken any steps to vacate the interim order passed by this Court.

8. In view of the aforesaid reasons, the writ petitions stand allowed and the impugned transfer orders passed by the second respondent dated 10.08.2020 are set aside and liberty is granted to the respondents to consider the matter afresh and pass fresh orders, if so advised. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

Jvm

To

1. The Managing Director,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
37, Mettupalayam Road,
Coimbatore-43.
2. The General Manager,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
37, Mettupalayam Road,
Coimbatore-43.

3. The Branch Manager,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Mettupalayam Branch,
Coimbatore.

+4ccs to Mr.A.Sundaravadanan, Advocate SR. Nos. 40200 to 40203
+1cc to Mr.V.Ajay Khose, Advocate SR. No. 40438

W.P.Nos.11490, 11493, 11494 & 11497 of 2020

NK (CO)
PR (19/07/2022)