

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.13610 of 2020

S.Prakash

.. Petitioner

vs.

1. Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Rep. By its Managing Director,
37, Mettupalayam Road,
Coimbatore-43.

2. The Branch Manager,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
37, Mettupalayam Road,
Coimbatore-43

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records pertaining to the order dated 02.07.2020 in No.2636/E3A/Pa.Thu.1/TNSTC (Ko)/2020 issued by the first respondent and order dated 15.09.2020 issued by the 2nd respondent in No.14765, quash the same, award costs.

For Petitioner : Mr.V.Ajay Khose

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

ORDER

The petitioner, challenging the impugned transfer order passed by the first respondent dated 02.07.2020, transferring the petitioner from Head Office Depot to Pollachi Depot-2, has filed the present writ petition.

2. The petitioner was earlier issued with a charge memo dated 24.02.2018 alleging that he was responsible for the accident which took place on 03.01.2018 and an award has been passed by the Labour Court, Coimbatore dated 25.10.2019 in CP.No.31/2018 directing the first respondent Corporation to pay the petitioner a sum of Rs.23,495/- and also cost of Rs.2,000/-.

Challenging the same, the first respondent Corporation has filed W.P.No.4945/2020, wherein the petitioner has entered appearance and the said writ petition is still pending. According to the petitioner, he is not responsible for the accident which took place on 27.05.2015, however, he was imposed with a punishment of increment cut for one year without cumulative effect, without holding any enquiry. Therefore, the petitioner raised an Industrial Dispute under Section 2(k) of the I.D. Act in I.D.No.11/2019 and the said dispute is still pending. The petitioner also lodged a complaint dated 24.06.2020 to the respondent Management during Covid 19 pandemic period against Thiru Senthilkumar, Time Keeper for having made to drive extra trips and the petitioner along with Conductor were made to stay in the depot without even taking food. In pursuant to the same, the petitioner was placed under suspension from 08.09.2020 to 14.09.2020 and vide impugned order dated 02.07.2020, the petitioner was transferred from Head Office Depot to Pollachi Depot-2.

3. It is the contention of the petitioner that the General Manager /first respondent is the competent authority to issue the transfer order and however, the impugned order has been issued by some inferior authority. It is further contended by the petitioner that the transfer order has been passed with malafide intention, since the petitioner has made a complaint on 24.06.2020 against Thiru Senthilkumar, Time Keeper, Gandhipuram Bus Stand and on the said ground, the impugned order is liable to be set aside.

4. The matter was listed for admission on 25.09.2020 and this Court has granted interim stay of the operation of the transfer order. By virtue of the interim order, the petitioner continued to work in the Head Office Depot. Though the matter has been listed after a lapse of two years, the respondents have not chosen to file any counter affidavit till date.

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

6. The main ground raised by the petitioner is with regard to competency of the authority to pass the impugned order. The respondents have so far not chosen to file any counter clarifying the competency and jurisdiction of the authority, who passed the transfer order. The petitioner, by virtue of the interim order granted by this Court, has been allowed to be retained in the same station at Head Office Depot for the past two years and the respondents have not taken any steps to vacate the interim order passed by this Court.

7. In view of the aforesaid reasons, the writ petition stand allowed and the impugned transfer order passed by the first respondent dated 02.07.2020 and the consequential relieving order of the second respondent dated 15.09.2020 are set aside and liberty is granted to the respondents to consider the matter afresh and pass fresh orders, if so advised. No costs.

Sd/-
Assistant Registrar(CS VIII)

//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 Branch Manager,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
37, Mettupalayam Road,
Coimbatore-43

+1cc to Mr.V.Ajay Khose, Advocate, S.R.No.40441
+1cc to Mr.A.Sundaravadanan, Advocate, S.R.No.40199

W.P.No.13610 of 2020

SV(CO)
CT/20/07/2022