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W.P.No.24134 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.24134 of 2019

and

W.M.P.No.6956 of 2021 & 23928 of 2019

C.Ponnusamy

... Petitioner

Vs.

The General Manager (Administration),
Tamil Nadu State Transport Corporation (CO) Ltd.,
Erode Division, Erode,
Erode District.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the entire records relating to the impugned order passed by the respondent in his proceedings Pa.No.903/P2/Pa.Pi.1/TNSTC/Ko/E.Ma/2019, dated 10.08.2019 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.M.Muralivinodh



W.P.No.24134 of 2019

ORDER

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The order of administrative transfer issued by the respondent, transferring the writ petitioner from Erode to Gudalur, The Nilgiris District is under challenge in the present writ petition.

2. The petitioner is working as a Driver in the respondent Corporation at Erode Depot. He states that he is the Union Leader of the Transport Corporation Employees Union. Thus, on certain political reasons, the petitioner was transferred from Erode to Gudalur, The Nilgiris District.

3. The petitioner states that his daughter was studying +2 at Erode and therefore, the transfer will affect his normal family life. Pursuant to the impugned order granted in the present writ petition, the petitioner is continuing in the same post at Erode for more than three years. As of now, the reasons stated in the year 2019, was that the petitioner's daughter was studying +2 and that reason also now disappeared.

4. This Court is of an opinion that transfers can be issued on various grounds. On a perusal of the impugned transfer order, it is stated that the writ



W.P.No.24134 of 2019

petitioner is transferred on administrative grounds and in the interest of administration. Transfers are imminent in respect of public servants, whenever there is a wide complaint against the employee is made known to the competent authorities. In certain circumstances, there may not be an evidence to prosecute the employee or to initiate departmental disciplinary proceedings. However, the competent authorities may of the opinion that further continuance of a public servant in a particular place would cause inconvenience as well as cause some difficult situation for the peaceful functioning of the public administration. Thus, in those circumstances, transfers alone are the remedies in the interest of public administration. Therefore, it is not necessary that there must be a transfer only after conducting an enquiry or initiation of disciplinary proceedings.

5. Administrative transfers are issued on various circumstances and on various grounds. For instance, continuance of certain public servants in a particular post, may not be conducive for the peaceful administration or their further continuance may cause certain troubles to the people, who all are the beneficiaries in the Department. There are various such administrative aspects, which all are the reasons for the administrative transfers. Courts would not be in a position to scrutinize or conduct an enquiry in respect of those reasons for such issuance of the administrative transfers.



W.P.No.24134 of 2019

WEB COPY

6. Administrative transfers are the prerogative of the Department concerned and the competent authorities are the best persons to assess and act accordingly. However, those competent authorities should act in the interest of public and in the event of any illegality or some personal motive, then alone, the employee can approach the Court of law for appropriate remedy. In other words, if an order of transfer is issued with a mala fide intention or in violation of the Statutory rules, then a writ petition can be entertained. Even in such cases, the allegation of mala fide intention must be substantiated in the writ proceedings and the official concerned must be impleaded as party respondents in the writ proceedings. In the absence of any such legal ground, routine administrative transfers can never be interfered with by the Constitutional Courts. Transfer is an incidental to service, more so, a condition of service. Public servant is liable to work wherever he is posted in the interest of public administration. On accepting the offer of appointment, a person is agreeing for the conditions of service and transfer being incidental, he must be in a position to work, wherever he is posted.



W.P.No.24134 of 2019

WEB COPY

7. Place or post can never be claimed as a matter of choice by the public servants. All public servants are duty bound to perform their duties diligently and with utmost care and devotion. This being the basic principles to be followed and erosion in this regard can never be tolerated either by the officials or by the Courts. High Court cannot interfere with the routine administration of the State or its organization. In the event of such routine interference in administration, more specifically, in transfer cases, the very Discipline and the functioning of the administration would be paralyzed. Thus, the judicial review of administrative transfers must be exercised with restraint and only on exceptional circumstances, such orders of transfers can be interfered with by the High Courts and not otherwise. This being the scope of the judicial review of administrative transfers issued by the competent authorities, this Court is of an undoubted opinion that the writ petitioner has not established any such strong acceptable ground for the purpose of interference in the orders of transfer.

8. The Government employees are entitled to enforce their legal rights ensured under the Act and statutory Rules. However, they are not entitled to claim right based on certain facilities and concessions shown by the



W.P.No.24134 of 2019

Government by way of Government letters/instructions. The State, being the model employer, time and again providing certain concessions/ facilities for the welfare of its employees and to encourage them, so as to run the administration in an effective manner. But those concessions/ facilities can never be a matter of legal right to the Government employees. The Constitutional Courts need not extend any consideration based on such facilities/instructions/guidelines extended by the Government in order to motivate the Government employees for running the State administration more effectively.

9. A mere forthcoming retirement or short tenure, cannot constitute a ground to attack the administrative orders of transfers. No doubt, certain difficulties may arise in the family of the Government servants in the event of an order of administrative transfer. But the interest of administration and the public interest alone are the paramount importance and this Court cannot extend any leniency to the Government employee on such pleadings of personal grievances. It is for the Competent Authorities to consider those grievances and even in case, such grievances are not considered by the original authority, it is left open to the Government employees to approach the higher authorities or the Government in this regard, but certainly not before this Court under Article 226 of the Constitution of India.



W.P.No.24134 of 2019

WEB COPY

10. Thus, the administrative transfers issued by the Competent Authorities cannot be interfered with by the Courts in a routine manner.

11. In view of the fact that the petitioner continued in the post at Erode, pursuant to the impugned order, for the past about three years, there is no reason to consider the relief at this length of time. Thus, this Court do not find any infirmity in respect of the order impugned. More so, Office bearers of the union are not exempted from administrative transfers.

12. This being the factum, the petitioner is not entitled for any relief and accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

30.11.2022

Index: Yes/No
Speaking order/Non-speaking order
rgm



WEB COPY



W.P.No.24134 of 2019

S.M.SUBRAMANIAM, J.

rgm

To

The General Manager (Administration),
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Erode Division, Erode,
Erode District.

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