



WEB COPY



W.P. No.25153 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2022

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P. No.25153 of 2022

and

W.M.P. No.24106 of 2022

and

W.M.P. No.25495 of 2022

K. Palanivel

...Petitioner

vs.

1. The Managing Director,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,
Salem – 7.

2. The General Manager,
Salem Region,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,
Salem – 7.

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the transfer order passed in No.E2/828/TNSTC(SLM)/2022, dated 01.09.2022 on the file of the 1st respondent quash the same.

For petitioner	: Mr.S.Doraiswamy
For respondents	: Mr.P.Muthukumar, State Govt. Pleader Assisted by Mr.K.Raja



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ORDER

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2. By order dated 19.09.2022 in W.M.P. No.24106 of 2022, this Court granted an order of interim stay of the impugned order based on the fact that the petitioner has been frequently transferred and on a prima facie consideration, the learned Single Judge felt that the transfer order is not justifiable.

3. The respondents on receipt of the order dated 19.09.2022 have now filed an application viz., W.M.P. No.25495 of 2022 seeking to vacate the interim stay dated 19.09.2022 passed in W.M.P. No.24106 of 2022. According to them, the impugned transfer order is not a punitive transfer order and has been issued only on account of administrative exigencies.

4. A reply affidavit has also been filed by the writ petitioner to W.M.P. No.25495 of 2022 denying the contentions of the respondents in the main writ petition. The writ petitioner would reiterate that the transfer order issued to the petitioner is a punitive transfer and has been issued



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with a malafide intent and has not been issued for administrative exigency.

5. The petitioner has also filed W.P. No.26932 of 2022 before this Court challenging the letter dated 26.09.2022 issued by the 2nd respondent directing the petitioner to appear before the Medical Board, Chennai for examining himself with regard to his medical fitness.

6. By order dated 06.10.2022, this Court in W.P. No.26932 of 2022 disposed of the said writ petition by directing the respondents to issue a fresh letter of reference referring the petitioner to the Medical Board in any neighbouring districts of Salem, preferably in Namakkal to enable the petitioner to get himself medically examined with regard to his fitness by the said Medical Board. The Medical Board was directed to examine the petitioner and issue a medical certificate with regard to the medical fitness of the petitioner, within a period of fifteen days from the date of receipt of the said order, dated 06.10.2022. The entire exercise was directed to be completed within a a period of thirty days thereafter.

7. The learned counsel for the petitioner, on instructions would submit that the respondents have made a false representation before this Court on 06.10.2022 in the aforesaid writ petition that the petitioner's son was working in the Medical Board. According to the learned counsel for



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the petitioner, the petitioner's son was never working in the Medical Board. The statement made by the learned counsel for the petitioner before this Court is recorded. However, as directed by the learned Single Judge of this Court on 06.10.2022 in W.P. No.26932 of 2022, the petitioner will have to necessarily get himself examined before the Medical Board in Salem or in any of the neighbouring districts i.e., Medical Board at Namakkal.

8. The learned counsel for the petitioner on instructions would also submit that the petitioner is willing to get himself examined before the Medical Board at Namakkal, as directed by the learned Single Judge of this Court on 06.10.2022 in W.P. No.26932 of 2022. However, the learned counsel for the petitioner would submit that the petitioner is aggrieved by the impugned transfer order dated 01.09.2022.

9. The learned Standing counsel for the respondents on instructions would now submit that if the petitioner after his medical examination by the Medical Board pursuant to the order dated 06.10.2022 passed in W.P. No.26932 of 2022 is able to prove his fitness, the respondents shall accommodate the petitioner to the post of Assistant Engineer at Metturdam, where the petitioner was earlier working pursuant to the impugned transfer order dated 01.09.2022, within a



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period of two weeks from the date of the medical certificate favourably issued in favour of the petitioner with regard to his medical fitness. The undertaking given by the respondents, which has been given in the presence of P.Palanisamy, Assistant Manager (Legal) is recorded by this Court

10. After recording the rival submissions, the following directions are issued by this Court :

a) the impugned transfer order dated 01.09.2022 which is the subject matter of this writ petition is hereby quashed.

b) the petitioner is directed to appear before the Medical Board at Namakkal for his medical examination with regard to his fitness and if a favourable certificate is given by the Medical Board, Namakkal, the petitioner shall produce the same before the respondent / Transport Corporation and on receipt of the same, the respondent / Transport Corporation as undertaken before this Court shall post the petitioner as an Assistant Engineer at Mettur Branch, within a period of two weeks from the date of production of the favourable medical certificate by the petitioner.

11. In case, a favourable report is given by the Medical Board and based on the favourable report, the petitioner is posted as an Assistant



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Engineer, Metturdam, the petitioner is permitted to give a representation to the respondent / Transport Corporation seeking for regularisation of the period of service i.e., from 01.09.2022, treating the said period as period of duty / leave and based on the said representation, the respondent shall consider the same on merits and in accordance with law, within a period of four weeks from the date of the said representation.

12. With the aforesaid directions, the writ petition is disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

17.10.2022

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-Speaking Order
vsi2

To :

1. The Managing Director,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,

Salem – 7.

2. The General Manager,
Salem Region,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,

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ABDUL QUDDHOSE, J.

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