



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.22039 of 2019

and

W.M.P.(MD) Nos.18792 & 18795 of 2019

D.Palanivel

... Petitioner

-vs-

1.The Managing Director,
Tamil Nadu State Transport Corporation,
Coimbatore Ltd., Coimbatore-43.

2.The Deputy Manager (Administration),
Tamil Nadu State Transport Corporation,
Coimbatore Ltd., Coimbatore Erode Division,
Chennimalai Road, Erode-1.

3.The Branch Manager,
Tamil Nadu State Transport Corporation,
Erode Region, Karur Branch, Karur District. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pursuant to the impugned order of the 2nd respondent in Pa.No.1071/B1/pa.B.1/tha.aa.po.ka/ko/E.Ma/19 dated 12.09.2019 and quash the same and consequentially direct the respondent herein to retain the petitioner in service in the present Karur Branch.

For Petitioner : Mr.Lakshmi Gopinathan
for M/s.Polax Legal Solutions

For R1 : Mr.K.Sathya Siva,

For RR2 & 3 : No appearance

O R D E R

The order of transfer dated 12.09.2019, transferring the writ petitioner from Karur to Erode is under challenge in the present



2.The petitioner was appointed as a Conductor in the respondent-Corporation on 21.01.2008 and posted at Pollachi Branch, Coimbatore and was subsequently transferred to Erode Region and in the year 2017, he was further transferred to Karur Branch.

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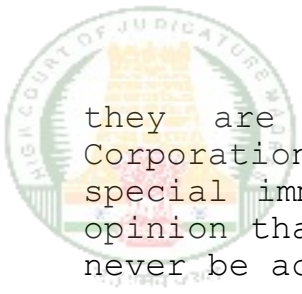
3.The petitioner states that he is the secretary of the Tamil Nadu Arasu Pokkuvarathu Desiya Tholilalarkal Sangam, Erode Division. He participated in the union activities for the welfare of the workmen. Therefore, he was repeatedly threatened by the Management and the transfer order was issued. The petitioner states that several memos were issued. The petitioner raised industrial disputes seeking regularisation of his service and to cancel the charge memo issued against him. He submitted an application to the General Manager to recognise him as protected employee. The petitioner was placed under suspension on 03.02.2018 and subsequently, it was revoked on 20.02.2018. Under these circumstances, the petitioner was transferred from Karur to Thirupur Region on administrative reasons.

4.Learned counsel for the petitioner stated that the petitioner earlier filed W.P.No.15728 of 2018 challenging the order of transfer and an order of *status quo* was granted. However, the petitioner was not permitted to work at Karur and again transfer order has been issued transferring the writ petitioner from Karur to Erode Branch. The said writ petition is also pending.

5.The petitioner himself has stated in the affidavit filed in support of the writ petition that he is the Secretary of the employees of the Sangam and several disciplinary proceedings were pending against him. He was placed under suspension and subsequently, the orders were revoked. However, those disciplinary proceedings initiated on various allegations cannot be a ground to assail the orders of administrative transfer.

6.The Office Bearers of various Trade Union or Association are always coming out with a ground that because they holding the post of Office Bearer, they should not be transferred and in the event of any such administrative transfers, grounds are taken that on account of union activities, such administrative transfers are issued. In other words, the Office Bearers of the Association are attempting to avoid transfer merely on the ground that they are holding some post in the Association.

7.The Office Bearers of the employees Association are not exempted from administrative transfers issued by the Corporation. They are equally bound to work on par with the other employees working in the Transport Corporation. No special immunity can be conferred on such Office Bearers of the Association except the facilities provided by the Corporation by way of rules. In all services, they are also employees of the Corporation and



they are bound by the administrative orders passed by the Corporation. Contrarily, there is a growing practice of claiming special immunity by these Office Bearers and this Court is of the opinion that any such claim affecting the administrative affairs can never be accepted.

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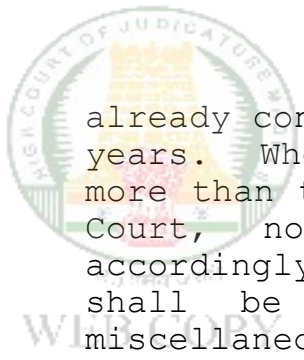
8. Transfer is an incidental to service and more so a condition of service. Post or place can never be claimed as a matter of choice by an employee. In the present case, the impugned order of transfer has been passed on administrative grounds.

9. Learned counsel for the petitioner states that the transfer is punitive. To establish the ground that it is a punitive transfer, the learned counsel relied on the writ petition earlier filed and the subsequent disciplinary proceeding action taken against the petitioner.

10. The various disciplinary proceedings initiated cannot be a ground to draw an inference that the transfer order has been issued on account of disciplinary proceedings. This Court is of the considered opinion that even administrative transfers can be issued in lieu of suspension or disciplinary proceedings. When an employee is facing disciplinary proceeding in a particular place or post and is causing hindrance to the smooth administration, then the competent authority may transfer an employee from one place to another for conducting a fair enquiry in the interest of public administration. Therefore, the administrative reasons provided cannot be gone into ordinarily and if an allegation of mala fides is raised and is substantiated, then alone, the Courts can interfere with the orders of transfer, but not otherwise.

11. Each and every incident of disciplinary proceedings are relied on for the purpose of assailing the administrative transfer order. Such grounds raised deserve no merit consideration and in the event of entertaining such grounds, the Court will be interfering with the day-to-day administration of the Corporation, which is certainly not preferable and in the event of interfering with the routine administration, the Corporation will suffer, as they have to maintain an efficient administration in the interest of public. The authorities competent would be the best persons to decide the place and post in which the employees are to be accommodated. Thus, interference by the Courts must be only on an exceptional circumstances.

12. In the present case, the petitioner is an Office Bearer of an Association. The said position would not provide any immunity from administrative transfer. However, all such grievances are to be redressed in the manner known to law. However, this Court is of the opinion that the order of administrative transfer issued need not be interfered with and further, the writ petition was filed in



already continuing in the present place at Karur for more than three years. When the petitioner has continued in the present place for more than three years pursuant to the interim order granted by this Court, no further consideration needs to be extended and accordingly, this Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

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Sub Assistant Registrar(CS)

abr

To

- 1.The Managing Director,
Tamil Nadu State Transport Corporation,
Coimbatore Ltd., Coimbatore-43.
- 2.The Deputy Manager (Administration),
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Coimbatore Ltd., Coimbatore Erode Division,
Chennimalai Road, Erode-1.
- 3.The Branch Manager,
Tamil Nadu State Transport Corporation,
Erode Region, Karur Branch, Karur District.

+1 CC to M/s.POLAX LEGAL SOLUTIONS, Advocate (SR-5433[F] dated 10/02/2022)

+1 CC to M/s.K.SATHIYA SINGH, Advocate (SR-5489[F] dated 10/02/2022)

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