



W.P(MD)No.8604 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2022

CORAM :

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P(MD)No.8604 of 2017

and

W.M.P.(MD)No.6529 of 2017

M.Jeeva Kumar

...Petitioner

Vs.

1.The General Manager,
Tamil Nadu State Transport Corporation
(Tirunelveli) Ltd.,
Nagercoil Division,
Kanyakumari District.

2.The Branch Manager,
Tamil Nadu State Transport Corporation
(Tirunelveli) Ltd.,
Ranithottam Branch-1,
Nagercoil,
Kanyakumari District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records pertaining to the impugned order passed by the first respondent in proceedings No.366/A 10/TNSTC(TVL)/Nager/2014 dated 21.06.2016 and quash the same as illegal.



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For Petitioner : Mr.R.J.Karthick
For Respondents : Mr.K.Sathiyasingh
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the order of the first respondent in proceedings No.366/A 10/TNSTC(TVL)/Nager/2014 dated 21.06.2016.

2. The learned counsel for the petitioner submitted that the petitioner was issued with two charge memos, dated 28.11.2012 and 11.11.2013. The first charge memo, dated 28.11.2012 reads as the petitioner was unauthorizedly absent on 16.09.2013 and 17.09.2013. The second charge memo, dated 11.11.2013 reads that the petitioner was late to the duty on 05.08.2013 resulting in delayed departure of the bus, due to which the petitioner had only taken three trips instead of four trips stating the reason that the wiper was not working. He further submitted that he had raised an Industrial Dispute before the Assistant Commissioner of Labour, Kanyakumari District and when the same is pending, he was transferred. Therefore, the petitioner has filed the present writ petition challenging the order of transfer stating that the



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transfer of the petitioner is *mala fide* and he is entitled for protection under Section 33 of the Industrial Disputes Act.

3. Per contra, the learned counsel appearing for the respondents submitted that the petitioner has been working in the same place for more than ten years. Therefore, the petitioner was transferred to another station only on administrative reason and the petitioner cannot challenge the transfer.

4. Heard the learned counsel appearing on either side and perused the records.

5. It is seen from the records that there were two charges against the petitioner. For the charge that the petitioner was unauthorizedly absent on 16.09.2013 and on 17.09.2013, he was slapped with a fine of Rs.100/-. For the other charge, the petitioner was imposed with a fine of Rs.300/-. Perusal of the petition dated 13.03.2017, filed before the Assistant Commissioner of Labour, Kanniyakumari District, shows that the petitioner was imposed with the punishment for the charges levelled against him, when he raised the industrial dispute on account of transfer.



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6. Section 33 of the Industrial Dispute Act protects the employee from altering the conditions of services, when an industrial dispute is pending. When the impugned order of transfer was passed, no industrial dispute was pending. Moreover, it is seen from the submission of the learned counsel for the respondents that the petitioner was serving in the particular station for more than ten years and thus, he was ordered to be transferred on administrative grounds.

7. Transfer is unavoidable in government service. Therefore, the petitioner cannot resist his transfer unless there is ill-motive behind the transfer. No such ill-motive is established in this case and therefore, this Court finds no merits in this petition and the writ petition deserves to be dismissed. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

17.08.2022

Index : Yes / No
Internet : Yes/ No
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G.CHANDRASEKHARAN, J.

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