



W.P.(MD)No.27231 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.27231 of 2022

and

W.M.P.(MD)Nos.21366, 21367 and 22053 of 2022

G.Ramalingam

... Petitioner

Vs.

1. The Managing Director,
Tamil Nadu State Transport Corporation (KMB) Limited,
New Railway Station Road,
Kumbakonam - 612 001.

2. The General Manager,
Tamil Nadu State Transport Corporation (KMB) Limited,
Kumbakonam Region,
27, New Railway Station Road,
Kumbakonam - 612 001.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records from the second respondent pertaining to the impugned order passed by the second respondent in Ku.Aa.No.11-06/PAPI-E3/Tha.Aa.Po.Ka(Kum)/2022 dated 24.11.2022.



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For Petitioner : Mr.K.Gokul
For Respondents : Mr.Veerakathiravan
Additional Advocate General
Assisted by Mr.K.Jagadees Balan
Standing Counsel

ORDER

The impugned order passed by the second respondent vide proceedings in Ku.Aa.No.11-06/PAPI-E3/Tha.Aa.Po.Ka(Kum)/2022, dated 24.11.2022 is under challenge in the present Writ Petition.

2. The case of the petitioner is that the petitioner joined as a Driver on 24.04.1996 in the respondent Corporation and now working in Thanjavur Town-I Branch from 2002. He is performing his duty in the route of V.74, i.e., from Thanjavur Bus Stand to Guruvadipalli and then, 15 singles from New Bus Stand to Old Bus Stand. On 27.10.2022, he performed duty as per the instructions of Branch Manager and Traffic In-charge. He operated 6 singles in the route from Thanjavur to Trichy from 6.15 am onwards. After completing the duty, once again, he operated 10 singles from Thanjavur New Bus Stand to Old Bus Stand and completed



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duty at 10.15 pm. Almost, he drove the bus nearly upto 352 kms beyond the schedule of 256 kms. Once again, he has been forced to operate the bus from Thanjavur to Trichy. However, he refused to perform the duty continuously, as he was unwell. Due to refusal for further duty, he was suspended for 22 days by the second respondent, vide proceedings dated 01.11.2022. The said suspension order was revoked and once again, he was allowed to join duty. The petitioner belonged to DMK Party and he is the member of the Trade Union, namely, LPF and the election was conducted for Trade Union of Transport Corporation. In Kumbakonam and Nagapattinam Region, election was conducted. In Kumbakonam Region, out of 11 Branches, the petitioner's group won 7 Branches and in respect of Nagapattinam Region, out of 11 Branches, his group won only 2 Branches. The petitioner was successfully elected as a President of Thanjavur Town-1 Branch. The rival group won totally 13 seats out of 22. Hence, the rival group captured the Central Power of LPF Union of Kumbakonam and Nagapattinam Region. One Pandian was elected as General Secretary for the said Region. By using Central Union Power, the petitioner was victimized and transferred to another Branch in Thanjavur Mofussil. Challenging the



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same, the present Writ Petition.

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3. The learned counsel appearing for the petitioner would submit that as per the 5th Schedule of the Industrial Disputes Act, 1947, the office bearers cannot be transferred or dismissed without any valid reason for labour union activities. However, in the present case, the petitioner was elected as a President in Thanjavur Town-1 Branch prior to the impugned transfer order and accordingly, he prayed for appropriate orders.

4. Per contra, the learned Standing Counsel appearing for the respondents would submit that the transfer order is purely on administrative grounds and the petitioner was transferred from Thanjavur Town-1 Branch to Thanjavur Mofussil, which is less than 5 kms and hence the impugned order of transfer cannot be interfered with. Hence he prayed for dismissal of this Writ Petition.

5. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.



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6. The facts in the present case are not in dispute. Admittedly, the petitioner belongs to the Ruling Party and he is the President of Thanjavur Town-1 Branch. Due to refusal for further duty, he was suspended for 22 days and the said suspension order was revoked. On perusal of the impugned order, it is seen that transfer is not a punishment and it is purely on administrative grounds and he was transferred from Thanjavur Town-1 Branch to Thanjavur Mofussil which is less than 5 kms.

7. In a catena of decisions, this Court as well as Apex Court held that the transfer is not a punishment and if the transfer is on administrative grounds frequently, which cannot be interfered with under Article 226 of the Constitution of India. In one such case, namely, ***Mohanraj v. The Chairman and Managing Director, Tamil Nadu Generation and Distribution Corporation Limited and others [Manu/TN/8302/2019]***, by following the decision of the Hon'ble Supreme Court, this Court has held as follows:

“14. Further, the Hon'ble Supreme Court, in yet another decision reported in 2004 (11) SCC 402 (State of U.P. Vs. Gobardhan Lal), in paragraph 7, observed as follows:-

“7. It is too late in the day for any government



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servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no 10/12 <http://www.judis.nic.in> W.P.No.18938 of 2019 infraction of any career prospects such as seniority, scale of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any



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legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.”

15. In the absence of any valid legal grounds and factual pleadings regarding mala fides, this writ petition deserves to be dismissed and accordingly, stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.”

8. For administrative reasons, the authority has power to transfer, which cannot be said to be *mala fide* one and the impugned order of transfer cannot be interfered with. If the petitioner belonged to other Trade Union, then, this Court can understand that the present impugned order is a *malafide* one. However, the petitioner being the President of the Ruling Party labour Union, the present impugned order is not a *malafide* and cannot be interfered with.

9. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes / No
Speaking Order / Non Speaking Order
vji/RR
Note: Issue order copy by 20.12.2022.



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