



WEB COPY

W.P.No.9959 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2023

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.9959 of 2012

1. K.Angalappan
2. K.Mohanraj
3. A.Karunanidhi

... Petitioners

Vs.

1. The Metropolitan Transport Corporation (Chennai) Ltd.,
Rep. by its Managing Director,
Pallavan House, Anna Salai,
Chennai – 2.
2. The General Manager,
Metropolitan Transport Corporation (Chennai) Ltd.,
Pallavan House, Anna Salai,
Chennai – 2.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the impugned order of the transfer bearing Ref.No.1206/PaPi(PO)4/MaPoKa/2011 dated 28.03.2012 issued by the second respondent on behalf of the first respondent and quash the same.

For Petitioner : Mr.V.Prakash, Senior Counsel



For Respondent : Mr.C.Ganthamaraj

ORDER

This Writ Petition has been filed challenging the order of transfer issued in Ref.No. 1206/PaPi(PO)4/MaPoKa/2011 dated 28.03.2012 issued by the second respondent, transferring the petitioners herein from Tondiarpet to Chrompet, .

2. During the pendency of the Writ Petition, petitioners 1 and 3 have retired from service. This Court while taking note of the serious allegation made in paragraph 3 of the affidavit filed in support of the Writ Petition, granted interim stay of the impugned proceedings dated 28.03.2012 by an order dated 10.04.2012. Even after a lapse of more than a decade, no counter affidavit, contradicting the allegations made in the affidavit filed in support of the Writ Petition is filed by the respondents. The allegations made in paragraph 3 of the affidavit reads as under:-

“ 3. I respectfully submit that the reason for the transfer is that the union tookup the issue relating to the canteen provided in the Tondiarpet Depot which



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also give meals for the workers. The Corporation pays Rs.27 for the meals to the Contractor, whereas the Contractor sub contracted the contracted for the meal to be served as Rs.15. The difference of Rs.12 goes to the Contractor and other who back the Contractor. Therefore, the quality of the meal have deteriorated. Therefore, the petitioner's union organized a protest demonstration on 28.03.2012 at 03.00 p.m., The petitioners were actively involved in organizing the protest demonstration. The impugned order was got ready at 05.00 p.m. On 28.03.2012 immediately after the demonstration. The impugned order is malafide in that the corporation could not have transferred the petitioners giving the reason as participation in the peaceful demonstration as the same would be in violation of Article 19(1)(a) of the Constitution of India. What the respondent is could not have done directly is being done indirectly by omitting the reason in the impugned order, which with great respect, does



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not in any way affect the real motive behind the impugned transfer.”

3. In spite of such serious allegations made, no counter-affidavit has been filed, thereby the said averments remained uncontroverted. In such circumstances, this Court is left with no other alternative, except to treat the averments made in paragraph 3 of the affidavit as extracted above as true.

4. In the light of the above, the impugned order is liable to be set aside and accordingly, the impugned order in Ref.No.1206/PaPi(PO)4/MaPoKa/2011 dated 28.03.2012 issued by the second respondent is set aside.

5. Accordingly, the Writ Petition stands allowed. There shall be no order as to costs. Miscellaneous Petitions, if any, shall stand closed.

08.12.2023

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No



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To

1. The Managing Director,
The Metropolitan Transport Corporation (Chennai) Ltd.,
Pallavan House, Anna Salai,
Chennai – 2.
2. The General Manager,
Metropolitan Transport Corporation (Chennai) Ltd.,
Pallavan House, Anna Salai,
Chennai – 2.



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MUMMINENI SUDHEER KUMAR, J.

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