



W.P(MD)Nos.11533 & 10278 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.11533 & 10278 of 2023

and

W.M.P.(MD)Nos.10024, 10026, 9131 & 9133 of 2023

In W.P.(MD)No.11533 of 2023

N.Manimathi

... Petitioner

Vs.

**1.The Senior Deputy Manager (H.R.D),
Tamilnadu State Transport Corporation (Kumbakonam) Ltd.,
Kumbakonam.**

**2.The Management of
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Rep. by its General Manager,
Kumbakonam.**

**3.The Branch Manager,
Thanjavur Town-II Branch of
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Kumbakonam Region,
Kumbakonam.**

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent relating to the impugned order dated 18.04.2023



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passed in Ref:TNSTC/Kumba/HRD/111/2023, transferring the petitioner from the third respondent Thanjavur Town-II branch to Vedaranyam branch and the relieving order of the third respondent dated 26.04.2023 passed in Reference TNSTC/Branch Thanjavur Town-II No.1890, quash the same and consequently, direct the respondents to continue to employ him at the third respondent branch till policy of transfer for disabled employees of the first respondent corporation is framed under Section 20(5) of the Rights of Persons with Disabilities Act, 2016 and to treat the period from the date of the impugned relieving order of the third respondent to the date of permitting him to join duty as his working days for all purposes and to pay him all the benefits including wages, award cost.

For Petitioner : Mr.S.Arunachalam

For Respondents : Mr.K.Jagadees Balan
Standing Counsel

In W.P.(MD)No.10278 of 2023

S.Chokalingam

... Petitioner

Vs.

1.The Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Represented by its
Managing Director,
No.27, Railway Station New Road,
Kumbakonam-612 001.

2.The General Manager,
Tamil Nadu State Transport Corporation

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(Kumbakonam) Limited,
Nagapattinam Region,
140, Public Office Road, Velipalayam,
Nagapattinam-611 001.

3.The Senior Deputy Manager
(Human Resources Development),
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Kumbakonam, Thanjavur District.

4.The Branch Manager,
Vedaranyam Branch,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Vedaranyam.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the third respondent in Ref:TNSTC/Kumba/HRD/111/2023, dated 18.04.2023 and quash the same.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.K.Jagadees Balan
Standing Counsel

COMMON ORDER

Heard the learned counsel appearing for the petitioners and the learned standing counsel appearing for the respondent corporation.



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2. Thiru.S.Chokalingam is the petitioner in W.P.(MD)No.10278 of 2023. Thiru.N.Manimathi is the petitioner in W.P.(MD)No.11533 of 2023. The management has swapped both of them. Manimathi has been transferred from Thanjavur branch to Vedaranyam branch, while Chokalingam has been transferred from Vedaranyam branch to Thanjavur branch. Both the writ petitioner feels aggrieved by the order of transfer.

3. The learned counsel appearing for Thiru.S.Chokalingam would allege that since he obtained an order for conferment of permanent status, the Management is inimically disposed towards him. The learned counsel appearing for Manimathi would contend that since the petitioner obtained an award of compensation following the injuries suffered by him during employment, the management feels aggrieved. It is an admitted fact that both are suffering from physical disability. Thiru.Manimathi had joined service as Conductor. He had suffered serious injury in left hand and left leg. The impugned proceedings dated 18.04.2023 itself describes Manimathi as medically disqualified. Thiru.Chokalingam joined as corporation driver and he is having heart



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ailment. He has also been described as medically disqualified in the impugned proceedings. The learned counsel appearing for the petitioners draws my attention to Section 20(5) of the Central Act 49 of 2016. It reads as follows:-

“20.Non-discrimination in employment

....

(5) The appropriate Government may frame policies for posting and transfer of employees with disabilities.”

4. The intention of the parliament is that transfer and posting policies should be framed by the employer by keeping in mind the special needs of the disabled employees. Of-course, the expression used is only “may”. It appears that the respondent corporation has not framed any specific policies in respect of the disabled employees. While testing an order of transfer passed in the case of the disabled employees, legislative intention can very well be taken into account by the Court. I sustain the contention of the learned counsel appearing for the petitioners that unless there is any special circumstance, a disabled employee ought not to be disturbed. In other words, the place of posting must be



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conducive. While one petitioner is working as helper, the other petitioner is working as security guard. They are not holding any sensitive posts. There is absolutely no justification or warrant for transferring them from one station to another. In fact, Manimathi would be happy to serve in Thanjavur itself or in any nearby place, while, Chokalingam is happy to serve in Vedaranyam. By disturbing them, interest of corporation is not in any way advanced. I am more than satisfied that the impugned order has been arbitrarily passed. It falls foul of the principles that are enshrined in Section 20 of the Central Act 49 of 2016. The transfer order dated 18.04.2023 is quashed.

5. These writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No
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G.R.SWAMINATHAN, J.

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