



W.P.(MD).No.18197 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 14.08.2023

PRONOUNCED ON : 05.09.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.18197 of 2023
and W.M.P(MD)Nos.15178 & 15179 of 2023

V.Arockiasamy

... Petitioner

Vs.

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

2.The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Karaikudi Region,
Mardhupathi,
Managiri Post,
Karaikudi,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records from the second respondent pertaining to the impugned order passed by the second respondent in Ref:Tha.Aa.Po.Ka/Karai/Papi/Pa1/66/2023, dated 20.07.2023 and quash the same as illegal.



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For Petitioner : Mr.K.Gokul
For Respondents : Mr.K.Ramaiah
Standing Counsel

ORDER

The prayer of the Writ Petition is as follows:-

The present Writ Petition has been filed for issuance of a Writ of Certiorari, to quash the impugned order passed by the second respondent dated 20.07.2023.

2.Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents and perused the materials available on record.

3.The petitioner joined as a Conductor in the year 2014 and is now working in Karaikudi Branch of the respondent Corporation. He is a member of LPF Trade Union affiliated with the DMK party, for which the election was conducted for Karaikudi Region for the said Trade Union. The election was conducted on 20.07.2022. In view of the malpractices which took place in the said election and since a particular group was preventing a few members of LPF from voting, the



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petitioner filed a Writ Petition in WP(MD)No.19742 of 2022 seeking to declare the said election as null and void. In the said case, this Court by order dated 26.08.2022 directed the Deputy Commissioner of Labour, Madurai to pass final orders in the representation of the petitioner for nullifying the result of the election. On the basis of the said order, the Deputy Commissioner of Labour, Madurai, by an order dated 09.02.2023 held that the elected office bearers of LPF election as void. The petitioner also filed another Writ Petition in W.P(MD)No. 6155 of 2023 seeking to prevent the elected office bearers of LPF, Karaikudi Branch from acting as office bearers of LPF of TNSTC, Karaikudi as the election result has become void. In the said case, this Court passed an order dated 18.04.2023 wherein it has been recorded on the instruction of the respondent that the management would not allow the office bearers of LPF of TNSTC, Karaikudi Branch to function. The petitioner also preferred a civil suit in O.S.No.84 of 2023 on the file of the learned District Munsif, Karaikudi with respect to the Trade Union elections and the same is pending. Under such circumstances, the second respondent passed the impugned order dated 20.07.2023 transferring the petitioner from Karaikudi Branch to Muthukulathur Branch. Challenging the same, this Writ Petition came to be filed.



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4.The learned counsel for the petitioner submitted that the impugned transfer order is vitiated by *mala fide* and the said transfer order has been issued at the instance of LPF office bearers whose election was declared void at the instance of the petitioner and on that basis, the learned counsel pressed that the Writ Petition be allowed.

5.Per contra, the learned Standing Counsel appearing for the respondents has filed a counter-affidavit refuting the allegations of *mala fide* in passing the impugned transfer order. He further submitted that it is for the administration to take appropriate decisions and such decisions shall stand unless they are vitiated either by *mala fide* or by extraneous consideration with any factual background. For administrative reasons, on the basis of the exigency of the business of the respondent Corporation, considering the fact that there is no sufficient Conductor available in Muthukulathur Branch and the writ petitioner having worked for more than three years in Karaikudi Branch, he was transferred to Muthukulathur Branch. The submission of the petitioner construing the transfer as punitive attached with stigma is unreasonable and is not sustainable. On that basis, the learned Standing Counsel for the respondents pressed for the dismissal of the Writ Petition.



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6.As rightly observed by the learned Standing Counsel appearing for the respondents Corporation obviously the petitioner has served at Karaikudi Branch for three years and the order of transfer is an incident of Government service. In my opinion, Courts should not unnecessarily interfere with the transfer order, which is made for administrative reasons unless the same is made in violation of any mandatory statutory Rules or on the ground of mala fide. A Government servant holding a transferable post has no vested right to remain posted at one place or other and he is liable to be transferred to any place at the instance of the employer.

7.The transfer order issued by the competent authority does not violate any of the petitioner's legal rights. Who should be transferred where, is a matter for the appropriate authority to decide? Normally, this Court cannot interfere with it. While ordering the transfer, there is no doubt the authority must keep in mind the guidelines issued by the Government on the subject. Similarly, if a person makes any representations with respect to his transfer, the appropriate authority must consider the same having regard to the exigencies of administration. The said guidelines however do not confer upon the Government employee illegal and enforceable rights.



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Since transfer is an implied condition of service, the petitioner cannot challenge the impugned transfer order as punitive, citing his involvement in Trade Union activities. All the Writ Petitions referred to by the petitioner attributing mala fide on the part of the respondent Corporation are not sustainable because all those Writ Petitions which emanated from the disputes which arose between two groups of the same Trade Union, namely LPF Trade Union and the same has nothing to do with the respondent Corporation. Hence, negating all the contentions raised by the petitioner as to mala fides and the contention as to the transfer order as a punitive one, this Court refrains from interfering with the impugned order, dated 20.07.2022 passed by the second respondent.

8. Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
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L.VICTORIA GOWRI, J.

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