



W.P.(MD).No.24481 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.24481 of 2023

and

W.M.P(MD) No.20665 of 2023

S.Nellai Nayagam

...Petitioner

Vs.

1. The Managing Director,
Tamil Nadu State Transport Corporation,
(Tirunelveli) Limited,
Tirunelveli Region,
Tirunelveli.
2. The General Manager,
Tamil Nadu State Transport Corporation,
(Tirunelveli) Limited,
Tirunelveli Region,
Tirunelveli.
3. The Branch Manager,
Tamil Nadu State Transport Corporation,
(Tirunelveli) Limited,
Tirunelveli Region,
Valliyoor Branch, Valliyoor,
Tirunelveli District.



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4. The Branch Manager,
Tamil Nadu State Transport Corporation,
(Tirunelveli) Limited,
Thoothukudi Region,
Tiruchendur Branch,
Tiruchendur,
Thoothukudi 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 of transfer in A.Aa.No.10360/Nia5/ThaAPo Ka./Thili/2022, dated 28.09.2023 passed by the first respondent and quash the same.

For Petitioner : Mr.K.Guhan

For Respondents : Mr.D.Jebaraj
Standing Counsel

ORDER

The present Writ Petition has been filed by a driver of the respondent Corporation challenging the order of transfer from Valliyoor Branch to Tiruchendur Branch.

2. According to the learned counsel appearing for the writ petitioner, the petitioner has been issued with a charge Memo, on 27.09.2023 and the transfer order has been issued on the next day on 28.09.2023. Hence,

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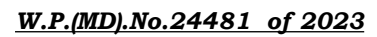


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according to the learned counsel appearing for the writ petitioner, the transfer is punitive in nature. The further contention of the writ petitioner is that he had applied for the causal leave on 26.09.2023 and 27.09.2023. Therefore, the allegation made against the writ petitioner that he had disturbed the bus services in the Valliyoor Depot on 27.09.2023 is factually incorrect. In view of the fact that the transfer order is punitive in nature, he seeks to set aside the said order.

3. Per contra, the learned Standing Counsel appearing for the Transport Corporation contended that the writ petitioner is working as a driver in the Valliyoor Branch right from the date of his appointment for the past 11 years. The transfer order impugned in the writ petition does not indicate that it is punitive transfer. On the other hand, he specifically points out that it is on administrative grounds. He further contended that the petitioner was relieved on 30.09.2023 and the writ petition came to be presented only on 05.10.2023. Hence, he prayed for dismissal of the writ petition.

4. I have carefully considered the submissions made by the learned counsel on either side and perused the records.



6. A perusal of the order of the Hon'ble Division Bench of this Court indicates that the order of suspension in those cases remained uncommunicated and thereafter, some selective employees were treated differently and therefore, the Hon'ble Division Bench of this Court was pleased to arrive at a finding that the transfer is punitive in nature and set aside those orders, referring under Article 14 of the Constitution of India. In the present case, such an issue does not arise.



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7. The learned counsel appearing for the petitioner has also relied upon the judgment of this Court in ***W.P.No.12252 of 2020, dated 11.12.2020 (Dr.A.Jayachitra vs.The Principal Secretary/ Member Secretary, Sports Development Authority of Tamil Nadu)*** and the learned Single Judge of this Court has arrived at a finding that when vacancies are available in a particular station, transferring an employee to a far off place is not sustainable. The learned Single Judge further found that when the employee had come to Chennai on request transfer and he was posted only on 12.09.2019, the transfer order passed in a short tenure was not sustainable in the eye of law. However, in the present case, the right from the date of his initial appointment, the petitioner is working as a driver in Valliyoor Branch for the past 11 years. Therefore, the said judgment is not applicable to the facts of the present case.

8. The learned counsel appearing for the writ petitioner had further relied upon the judgment of the learned Single Judge of our High Court reported in ***2023-I-LLJ – 345 (S.Senthamizh Selvan Vs. Senior Manager, Pudukkottai Bharathiar Grama Bank, Pudukkottai and another)*** to contend that



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when the transfer order is vindictive and punitive in nature without following the transfer policy, then the said order is liable to be set aside.

9. In the present case, it is not the case of the petitioner that the transfer policy has not been followed or within a period of three years, he has been transferred from Valliyoor to Tiruchendur. As far as the present case is concerned, though the charge Memo is cited as a ground to challenge the order of transfer, the order of transfer clearly reveals that it is on administrative grounds.

10. In view of the above said deliberations, this Court is not inclined to interfere in the order of transfer. However, the petitioner is at liberty to seek re-transfer to Valliyoor Branch on completion of the enquiry and the same may be considered by the respondent Corporation.



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11. With the above said observations, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

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NCC : Yes/No
Index : Yes / No
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