



W.P.No.202 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.202 of 2024
W.M.P.Nos.237 & 238 of 2024

V.Kalyanasundaram

...Petitioner

-Vs -

1. The Metropolitan Transport Corporation Limited,
Rep. by its Managing Director,
No.2, Pallavan Salai,
Chennai -2.
2. The Senior Deputy Manager-HR,
Metropolitan Transport Corporation Limited,
No.2, Pallavan Salai,
Chennai -2.
3. The Deputy Manager (Personnel)
Metropolitan Transport Corporation Limited,
No.2, Pallavan Salai,
Chennai -2.
4. The Branch Manager,
Kannagi Nagar Depot,
Metropolitan Transport Corporation Limited,
Okkiyam Thoraipakkam,
Chennai – 600 097.



W.P.No.202 of 2024

WEB COPY

5. M.Mohanraj, Conductor,
Joint Secretary,
Managara Pokkuvarathu Kazhaga
Oozhiyar Munnetra Sangam,
Kannagi Nagar Depot,
Metropolitan Transport Corporation Limited,
Okkiyam Thoraipakkam,
Chennai – 600 097.

6. E.Murugan, Conductor,
Treasurer,
Managara Pokkuvarathu Kazhaga
Oozhiyar Munnetra Sangam,
Kannagi Nagar Depot,
Metropolitan Transport Corporation Limited,
Okkiyam Thoraipakkam,
Chennai – 600 097.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 26.12.2023 passed by the second respondent in proceeding No.26023/Pa.P.(Po)3/MTC/2023, transferring the petitioner from Kannagi Nagar Depot to Central Depot at Pallavan Salai and the relieving order dated 01.01.2024 issued by the fourth respondent, relieving the petitioner from Kannagi Nagar Depot, w.e.f., 02.01.2024, quash the same and consequently direct the respondents 1 to 4 to retain the petitioner and to allow him to continue his service as a driver in Kannagi Nagar Depot, without any adverse changes, w.e.f., 27.12.2023, with all consequential benefits.



W.P.No.202 of 2024

For Petitioner : Mr.V.Ajoy Khose

For Respondents : Mr.A.Vinoth Raj
Standing Counsel

ORDER

This writ petition has been filed challenging the order of transfer dated 26.12.2023 passed by the second respondent, thereby transferred the petitioner from Kannagi Nagar Depot to Central Depot at Pallavan Salai.

2. The petitioner was selected and appointed as Casual Driver by the first respondent. Thereafter, the petitioner was appointed as daily rated monthly paid driver at Chrompet depot and thereafter transferred and posted to work at Adayar depot. On 01.09.1997, he was made permanent and brought into time scale of pay. Thereafter, the petitioner was transferred to Vadapalani depot and on 11.03.2003 transferred and posted to Thiruvanmiyur depot. When new depot was started at Kannagi Nagar, the petitioner was transferred and posted to work in the said depot from 23.04.2017.



W.P.No.202 of 2024

3. While being so, the respondents 5 & 6, who were appointed as Conductors, were allowed to act as Traffic Controllers and they used to allot duties to the Drivers and Conductors as per their choice and to facilitate the member and office bearers of the LPF Union. The petitioner had joined another Union named Arasanga Pokkuvarathu Uzhiyar Sangam and they submitted representation to restore the buses from general shift service to full shift service as they were operated earlier and also requested to restore full shift service to one Prakash, Driver. The petitioner's union also pointed out that there was no proper flooring, lighting, drinking water, fans and other basic amenities and requested the respondents 1 & 2 to take appropriate action.

4. Further the said Prakash is a Committee Member of the petitioner's union and though he was reported for work and stayed in the depot throughout the day on 23.11.2023, he was not allotted any duty. The next day, he was not given any duty during the morning shift and only in the evening shift he was allotted duty in the last bus, since the sixth respondent was acted as Traffic Controller. Therefore, the petitioner's union submitted representation to the second respondent.



W.P.No.202 of 2024

5. On 26.11.2023, when the petitioner was waiting in the depot to get duty, without any prior intimation, he was placed under suspension with effect from 25.11.2023. Thereafter, on the report received from the fourth respondent, the second respondent issued charge memo dated 12.12.2023, consisting two charges and the petitioner was called for to submit explanation. However, on the same day viz., on 12.12.2023, the second respondent by an another order revoked the order of suspension dated 25.11.2023 and permitted him to join duty. While being so, the petitioner was transferred from Kannagi Nagar depot to Central depot at Pallavan Salai, by an order dated 26.12.2023. Immediately, the petitioner's union submitted representation to Joint Commissioner of Labour, Conciliation and requested to intervene the order of transfer.

6. The learned counsel appearing for the petitioner vehemently contended that there is no provision regarding transfer in the Common Certified Standing Orders. Therefore, the order of transfer cannot be imposed as against the petitioner. All the employees are governed by the Certified Standing Orders and when the Appellate Authority viz., the Principal Labour Court, Chennai, by its order dated 01.04.2022 in



W.P.No.202 of 2024

S.O.A.No.4 of 1995, deleted the clause regarding transfer which was certified under Clause 28 of the Common Standing Orders, the respondents ought not to have transferred the petitioner.

6.1. He further submitted that when the petitioner was under suspension from 25.11.2023, based on the report of the Assistant Branch Manager and when the order of suspension has been revoked on 12.12.2023 and also on the same day the petitioner was served with charge memo, the impugned order of transfer ought not to have been passed on 26.12.2023. Therefore, the transfer is nothing but malafide one.

7. The learned Standing Counsel appearing for the respondents submitted that the order of transfer has been passed only on the administrative ground because of the non availability of drivers in the Central depot. The order of transfer is a condition of service as such it cannot be challenged. He further submitted that the distance between both the depots viz., Kannagi Nagar depot and Central depot, is only 20 km., and therefore, there is no malafide intention on the respondents.



W.P.No.202 of 2024

WEB COPY

8. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

9. Admittedly, the petitioner was placed under suspension and thereafter the same was revoked and the petitioner returned into service on 12.02.2023. On the same day, he was served with charge memo and called for the petitioner to submit explanation. Immediately, he was transferred from Kannagi depot to Central depot by an order dated 26.12.2023. Therefore, the order of transfer is nothing but clear abuse of power and only with malafide intention. Therefore, the impugned transfer order cannot be sustained and liable to be quashed.

10. Accordingly, the impugned order dated 26.12.2023 passed by the second respondent in proceeding No.26023/Pa.P.(Po)3/MTC/2023, is hereby quashed. The respondents 1 to 4 are directed to retain the petitioner and to allow him to continue his service as a driver in Kannagi Nagar Depot, without any adverse changes, w.e.f., 27.12.2023, with all consequential benefits.



W.P.No.202 of 2024

WEB COPY 11. With the above directions, the Writ Petition stands allowed.

Consequently, connected miscellaneous petitions are closed. There shall be no orders as to costs.

23.02.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

rts

To

1. The Managing Director,
Metropolitan Transport Corporation Limited,
No.2, Pallavan Salai,
Chennai -2.
2. The Senior Deputy Manager-HR,
Metropolitan Transport Corporation Limited,
No.2, Pallavan Salai,
Chennai -2.
3. The Deputy Manager (Personnel)
Metropolitan Transport Corporation Limited,
No.2, Pallavan Salai,
Chennai -2.
4. The Branch Manager,
Kannagi Nagar Depot,
Metropolitan Transport Corporation Limited,
Okkiyam Thoraipakkam,
Chennai – 600 097.



W.P.No.202 of 2024

WEB COPY

5. The Joint Secretary,
Managara Pokkuvarathu Kazhaga
Oozhiyar Munnetra Sangam,
Kannagi Nagar Depot,
Metropolitan Transport Corporation Limited,
Okkiyam Thoraipakkam,
Chennai – 600 097.
6. The Treasurer,
Managara Pokkuvarathu Kazhaga
Oozhiyar Munnetra Sangam,
Kannagi Nagar Depot,
Metropolitan Transport Corporation Limited,
Okkiyam Thoraipakkam,
Chennai – 600 097.



WEB COPY



W.P.No.202 of 2024

G.K.ILANTHIRAIYAN. J.

rts

W.P.No.202 of 2024
W.M.P.Nos.237 & 238 of 2024

23.02.2024