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W.P.No.16731 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2024

CORAM:

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

W.P.No.16731 of 2024 and
WMP.Nos.18382 & 22577 of 2024

R.Jagadeesan

... Petitioner

Vs.

1.Tamilnadu State Transport Corporation (Salem) Ltd.,
Salem Region,
Salem,
Rep. By its General Manager

2.The Branch Manager,
Namakkal-1,
Tamilnadu State Transport Corporation (Salem) Ltd.,
Namakkal ... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Certiorari calling for the records relating to the transfer order in No.E2/820/TNSTC (Salem)/2024 dated 11.06.2024 on the file of the first respondent and the subsequent relieving order in No.E1/9430/N-1Branch/TNSTC(Salem)/2024 dated 12.06.2024 on the file of the second respondent, quash the same.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.P.Muthukumar,



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Additional Advocate General
Assisted by
Mr.K.Raja,
Standing Counsel

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 11.06.2024 thereby transferred the petitioner and relieved the petitioner by an order dated 12.06.2024.

2. The petitioner was selected and appointed as Driver on daily wage basis in the respondents / Corporation. Thereafter his service was regularised as regular Driver with effect from 01.03.2016. He was assigned work as Driver from Namakkal to Velampatti Town Bus No.10. While being so, on 16.05.2024, he was suffering from chest pain. Immediately, he was treated in a private hospital and advised to take rest for 20 days. On 20.05.2024, through his wife and his sister's son, leave letter along with medical records were submitted before the second respondent. However, it was refused to be received and the request made by the petitioner seeking leave was not considered. After 20 days, the petitioner reported for duty on 05.06.2024. However, he was not permitted to join and directed to approach the first respondent and he was



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issued duty order subject to departmental proceedings. In pursuant to his duty order, the petitioner was served with charge memo dated 03.06.2024.

2.1 In the meanwhile, medical leave application was not accepted. Further, the petitioner was allotted other bus for duty in the route of Namakkal to Thuraiyur. While returning from Thuraiyur to Namakkal, there was heavy rain and due to which, there was some leakage in the roof. Therefore, one of the passengers used umbrella inside the bus and had taken photograph and published in the newspaper. Therefore, the petitioner and the Conductor of the bus were suspended on 07.06.2024 for a period of 2 days and in fact, the bus was subjected to inspection and found that there was no leakage in the roof. For publicity, the said passenger used umbrella and had taken photograph and published in the social media. After two days of suspension period, once again the petitioner was directed to go for training at Salem for two days. After completion of two days training, the petitioner was not permitted to join in the same depot and transferred from Namakkal-I Branch to Mettur Branch on 11.06.2024 and immediately he was relieved from service on



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12.06.2024.

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3. The learned counsel appearing for the petitioner submitted that this order of transfer is nothing but vindictive in nature and in order to wreak vengeance against the petitioner, he has been now transferred from Namakkal to Mettur. The petitioner has nothing to do with the photograph which was taken by one of the passengers and published in the social media. The petitioner is being Driver, he could not able to turn around and see the passenger who was travelling in the bus. He further submitted that the petitioner was also suspended from service for two days as punishment. It was never heard in the Regulations that imposing punishment by suspension for two days. Once again the petitioner was directed to undergo training. It was also not heard off and it was also not mentioned as kind of training. However, the petitioner accepted both suspension as well as two days training and reported for duty. All of sudden, instead of permitting him to join duty, he was transferred from Namakkal to Mettur. That apart, the petitioner was served with charge memo for unauthorised absence. In fact, even after the order of stay granted by this Court, the petitioner was not permitted to join in duty and



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once again, the petitioner was issued charge memo for unauthorised absence.

4. The learned Additional Advocate General appearing for the respondents submitted that it is the order of transfer which is routine in nature for better administration. The petitioner is working in the said station nearly 10 years. Therefore, the petitioner has got experience in driving and as such, he has been posted to Mettur Depot in order to extract more service from the petitioner. Therefore, the order of transfer is not punitive in nature and also without any malafide intention.

5. Heard, the learned counsel appearing on either side.

6. As rightly pointed by the learned counsel appearing for the petitioner, initially the petitioner was suffering with chest pain and he was advised to take rest for 20 days. Though the petitioner could not able to submit his leave application on 16.05.2024, the petitioner's wife along with his sister's son approached the second respondent and submitted leave letter for the period from 16.05.2024 to 05.06.2024. However, it



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was not considered and directed them to approach the first respondent.

The first respondent directed them to drop the leave letter in the letter box which was kept in the office of the first respondent. Though it was dropped in the letter box, the petitioner was not sanctioned any medical leave. When the petitioner reported duty on 05.06.2024, he was not allotted to join and he was directed to approach the first respondent. Immediately he was imposed with two days punishment by suspension and once again, he was imposed with training for two days. Even then, the petitioner was not permitted to join and he was transferred from Namakkal-I depot to Mettur depot on administrative reasons.

7. It is seen that though the petitioner was permitted to join duty, he was posted in some other bus from Namakkal to Thuraiyur. While the petitioner was on duty from Thuraiyur to Namakkal, there was rain and one of the passengers had taken photograph as if the roof of the bus was leaking and posted the said photograph with the social media. It would have ired the respondents and also for extraneous pressure, the petitioner was imposed with two days punishment by suspension and two days for training. Both are not heard off in the Rules and Regulations of



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the respondents. However, the petitioner had undergone both and reported for duty. Unfortunately he was invited by way of transfer by the first respondent. Therefore, in all aspects, it is seen that with malafide intention and also to satisfy some pressure, the petitioner was transferred from Namakkal to Mettur Therefore, the impugned orders cannot be sustained and the same are liable to be quashed.

8. Accordingly, the impugned orders dated 11.06.2024 & 12.06.2024 of the respondents are quashed. The first respondent is directed to permit the petitioner to join in Namakkal-I depot forthwith. It is made clear that the respondents are at liberty to proceed with the disciplinary proceedings for unauthorised absence during the petitioner's illness, without influence of the above observations made by this Court. Further, the second charge memo dated 09.07.2024 consisting two charges cannot be sustained since the petitioner was not permitted to join duty in Namakkal-I depot in spite of the interim order passed by this court on 25.06.2024.

9. With the above direction, this writ petition stands allowed.



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

29.07.2024

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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To

- 1.General Manager
Tamilnadu State Transport Corporation (Salem) Ltd.,
Salem Region,
Salem,
- 2.The Branch Manager,
Namakkal-1,
Tamilnadu State Transport Corporation (Salem) Ltd.,
Namakkal



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G.K.ILANTHIRAIYAN, J.

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