



W.P.(MD).No.3279 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.3279 of 2021
and WMP(MD) No.1611 of 2021

V.Dhandapani

... Petitioner

Vs

1. The Management of Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Rep. by its Managing Director,
Mettupalayam Road, Coimbatore.
2. Anbu Abraham
3. The Management of Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Rep. by its General Manager,
Erode Region, Erode.
4. The Branch Manager,
The Tamil Nadu Transport Corporation (Coimbatore) Ltd.,
Erode Region, Karur Depot, Karur.
5. Sakthivel
6. The Management of Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Rep. by its General Manager,
Coimbatore Region, Coimbatore



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7. The Branch Manager,
The Tamil Nadu Transport Corporation (Coimbatore) Ltd.,
Valparai Depot,
Coimbatore Region, Valparai-642 127.

... 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 the order of the 1st respondent in Pa No.126/B3/ PaPi1/ TNSTC/ Coimbatore/Erode Region/21, dated 06.02.2021 and quash the same.

For Petitioner : Mr. A.Rahul

For Respondents : Mr.K.Ramaiah
Standing Counsel

ORDER

This writ petition has been filed challenging the impugned order of the 1st respondent in Pa No.126/B3/PaPi1/TNSTC/Coimbatore/Erode Region/21, dated 06.02.2021.

2.(i).The petitioner is working as a Senior Tradesman in the first Respondent Corporation ie., Tamil Nadu State Transport Corporation (Coimbatore Division -II) Ltd, having its headquarters at Erode. The said Corporation was amalgamated with Tamil Nadu State Transport Corporation,



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(Coimbatore -Division I) Ltd as per the order published by the Government of India, dated 30.12.2003. It is having registered office at Coimbatore.

(ii).Clause 9 of the Amalgamation order protected the interest of the workers of the dissolved company that they should be transferred within the jurisdiction of the original company wherein they served. However, violating the mandates of Clause 9 of the amalgamation order, the impugned order of transfer came to be passed transferring the petitioner from Karur region to Coimbatore region. Challenging the same, this writ petition came to be filed.

3.The learned counsel for the petitioner submitted that the petitioner is ready to serve within the jurisdiction of the corporation, where he served at the first instance and the same has been protected by this Court by an interim order, dated 19.02.2021. In view of the same, despite the impugned order of transfer, the petitioner continued his job at Karur Region.

4.The learned counsel for the petitioner relying upon the order passed by this Court in W.P No.6289 of 2017, dated 12.09.2017 submitted that, the petitioner's case would be squarely covered by various judgments of this Court and pressed for allowing the writ petition.



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5.The learned Standing Counsel for the respondents fairly conceded the same.

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

7.The relevant portion of the order relied upon by the petitioner in W.P No.6289 of 2017, dated 12.09.2017, is extracted hereunder:

“4.In this regard, the learned counsel also cited the judgment of this Court passed in W.P.No.3257 of 2007 dated 11.09.2007. This Court considered the conditions of clause 9 of the Amendment order and granted the relief in respect of the batch of cases and the relevant paragraphs are extracted hereunder:

“14. The only question that arises for consideration is whether the transfer orders issued by the General Manager, Kancheepuram. Clause 9 is very relevant for the purpose of deciding Division is in violation of the Amalgamation order 2003 dated 30.12.2003.

15. A copy of the Amalgamation order was made available in the typed set of papers. Clause 9 is very relevant for the purpose of deciding Division is in violation of the Amalgamation order 2003 dated 30.12.2003. According to



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the writ petitioners, it is the clause 9 of the Amalgamation order which has been violated while issuing the transfer orders. Clause 9 is extracted below for better appreciation.

“9.Provisions regarding existing officers and other employees of the dissolved companies : Every whole time officer or other employee (excluding the directors of the dissolved companies) employed immediately before the appointed day, become an officer or other employee as the case may be of the resulting company and shall hold his office or service therein by the same obligations and with the same rights and as he would have held the same under the dissolved companies, if this order has not been made and shall continue to do so unless and until his employment in the resulting company is duly terminated or until his remuneration and conditions of other than officers as it existed in the respective companies. Immediately before the appointed date shall be maintained, implying that the seniority, promotional opportunities and transfer among employees upto supervisory level shall remain protected even after amalgamation in the resulting company in respect of employees on roll at the time of issue of this order. The employees recruited thereafter would be transferred within the jurisdiction of the resulting company. The promotions from supervisory cadre to managerial cadre shall however be as per seniority within the resulting company. The seniority among the managerial cadre shall be recast within the resulting company on merger.”



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16.From the above, it is very clear that the seniority, promotional opportunities and transfer among employees upto supervisory level shall remain protected even after amalgamation in the resulting company in respect of employees on roll at the time of issuing the amalgamation order. In such circumstances, I find force in the submission of the learned Senior Counsel for the writ petitioners that the transfer orders issued without the consent are not sustainable in view of Clause 9 of the Amalgamation order. Therefore, I reject the arguments of the learned Special Government Pleader that these orders were passed on the basis of the administrative policy and therefore they could not be questioned under Article 226 of the Constitution of India.

17. At the same time, I am aware that W.P.No.3369 of 2007 was filed by the Union in the representative capacity challenging the transfer orders of 54 employees. It is not denied by the Union that the 54 employees, whose names are shown in the annexure of the writ petition joined the new region. In fact, it was admitted by them in the reply affidavit filed by them. They want a direction from this Court to permit them to serve in their original place by restoring the status quo ante as on 16.01.2007.

18.Considering the fact that all the 54 employees have joined the new region pursuant to the order of transfer and considering the fact that none of the 54 employees individually challenged the order of transfer them to the new region. At the same time, a direction is issued to the Transport Corporation not to alter the service conditions of



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the employees as stipulated and as contained in the amalgamation order 2003 dated 30.12.2003.

19. Since individual employees approached this Court in W.P.No.3257 of 2007, W.P.No.4767 of 2007 and W.P.No. 5322 of 2007 and they obtained order, I am directing the respondents not to give effect to those transfer orders.

20. Consequently, the transfer order dated 20.01.2007 in W.P.No. 5322 of 2007 is quashed and the writ petition is allowed. Similarly, the transfer order dated 25.01.2007 in W.P.No.4567 of 2007 is also quashed and the writ petitioner in W.P.No.3257 of 2007 as granted in W.P.No.3369 of 2007 with an additional direction not to give effect to the transfer order dated 19.01.2007 in so far as that writ petition alone is concerned.”

8.Fully fortified with the order passed by this Court as extracted supra, this Court is of the considered opinion that transfer should be made from one place to another place within the same region and not to a place which is not a part of the original region where the employee was working till such transfer.



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9. In view of the above observations, this writ petition is allowed by quashing the impugned order of the 1st respondent in Pa No. 126/B3/PaPi1/TNSTC/Coimbatore/Erode Region/21, dated 06.02.2021. There shall be no order as to costs. Consequently connected miscellaneous petition is closed.

30.07.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes

PNM

To

1. The Managing Director, Management of Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Mettupalayam Road, Coimbatore.

2. The General Manager, Management of Tamil Nadu State Transport Corporation (Coimbatore) Ltd., Erode Region, Erode.

3. The Branch Manager,
The Tamil Nadu Transport Corporation (Coimbatore) Ltd.,
Erode Region, Karur Depot, Karur.

4. The General Manager, Management of Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Coimbatore Region, Coimbatore

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L.VICTORIA GOWRI, J.

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**ORDER IN
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