



W.P.(MD).No.28743 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.28743 of 2023

and

W.M.P(MD) No.24790 of 2023

M.P.Saravanan

Vs.

... Petitioner

1. The Managing Director,
Tamil Nadu State Transport Corporation,
(Tirunelveli) Limited,
Tirunelveli.
2. The Branch Manager,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
Tirunelveli Region,
Puliyangudi Branch,
Puliyangudi, Thenkasi District.
3. The Branch Manager,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
Thoothukudi Region,
Thoothukudi City Branch,
Thoothukudi.

... Respondents



W.P.(MD).No.28743 of 2023

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/ Tha ApoKa./Thili/2022, dated 15.11.2023 passed by the first respondent and quash the same.

For Petitioner : Mr.K.Guhan

For Respondents : Mr.D.Jebaraj
Standing Counsel

ORDER

The instant writ petition has been filed by a Driver of the respondent Transport Corporation, challenging the order of transfer from Puliyangudi Branch to Thoothukudi Town Branch.

2. At the time of admission, no interim orders have been granted by this Court, however, the petitioner has not chosen to join the transferred place.

3. According to the learned counsel appearing for the writ petitioner, the charge memo has been issued to him on 31.10.2023 and therefore the impugned order of transfer passed on 15.11.2023 is punitive in nature.



W.P.(MD).No.28743 of 2023

WEB COPY

4. In the judgment of the Hon'ble Supreme Court reported in **(2011) 12 SCC 137 (Registrar General, High Court of Judicature of Madras vs. R.Perachi and others)**, in Paragraph No.36, it is held as follows:

“36..... In the present case we are concerned with a Sheristadar who has been transferred on receiving a complaint, although an anonymous one, but against whom a departmental enquiry is pending. He has been transferred to another district though retaining him in the same cadre with the same pay as well as his seniority. Such an action as fully justified and within the authority of the High Court. No observations were made against him, nor was any stigma attached. The reliance on the above three judgments to interfere in such an order clearly shows a non-application of mind by the Division Bench to the problem which the High Court Administration was faced with, and which was being attended in accordance with the relevant rules.”

5. In the judgment of the Hon'ble Supreme Court reported in **(2004) 4 SCC 245 (Union of India and others Vs. Janardhan Debanath and another)**, in paragraph No.14, it is held as follows:

“14. The allegations made against the respondents are of serious nature, and the conduct



WEB COPY



W.P.(MD).No.28743 of 2023

attributed is certainly unbecoming. Whether there was any mis-behaviour is a question which can be gone into in a departmental proceeding. For the purposes of effecting a transfer, the question of holding an enquiry to find out whether there was mis-behaviour or conduct unbecoming of an employee is unnecessary and what is needed is the prima facie satisfaction of the authority concerned on the contemporary reports about the occurrence complained of and if the requirement, as submitted by learned counsel for the respondents, of holding an elaborate enquiry is to be insisted upon the very purpose of transferring an employee in public interest or exigencies of administration to enforce decorum and ensure probity would get frustrated. The question whether respondents could be transferred to a different division is a matter for the employer to consider depending upon the administrative necessities and the extent of solution for the problems faced by the administration. It is not for this Court to direct one way or the other. The judgment of the High Court is clearly indefensible and is set aside. The writ petitions filed before the High Court deserve to be dismissed which we direct. The appeals are allowed with no order as to costs.”



W.P.(MD).No.28743 of 2023

WEB COPY

6. Therefore, it is clear that whenever there are allegations as against the employee and an enquiry is contemplated, the employer is always at liberty to transfer the concerned employee to a different place, so that, fair enquiry would be conducted as against the employee. Therefore, merely because a charge memo is issued to the writ petitioner, that will not prevent the management in any manner from transferring the concerned employee.

7. In view of the above said facts, there are no merits in this writ petition. Accordingly, this Writ Petition stands dismissed. The petitioner is at liberty to join the transferred post. The first respondent has appeared in person before this Court. His further appearance is dispensed with. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

19.09.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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W.P.(MD).No.28743 of 2023

WEB COPY

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W.P.(MD).No.28743 of 2023

R.VIJAYAKUMAR,J.

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W.P(MD)No.28743 of 2023

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