



W.A(MD)No.303 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2024

CORAM :

THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

and

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.A.(MD)No.303 of 2024

and

C.M.P.(MD)No.2893 of 2024

S.Nellai Nayagam

... Appellant

Vs.

1.The Managing Director

Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Tirunelveli Region,
Tirunelveli.

2.The General Manager

Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Tirunelveli Region,
Tirunelveli.



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3.The Branch Manager

Tamilnadu State Transport Corporation (Tirunelveli) Ltd.,
Tirunelveli Region,
Valliyoor Branch,
Valliyoor,
Tirunelveli District.

4.The Branch Manager

Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Tirunelveli Region,
Tiruchendur Branch,
Tiruchendur,
Thoothukudi District.

... Respondents

PRAYER: Appeal filed under Clause 15 of Letters Patent, praying to set aside the order passed in W.P.(MD)No.24481 of 2023 dated 12.10.2023, on the file of this Court and allow this writ appeal.

For Appellant : Ms.V.Moushica
for Mr.R.Anand
For Respondents : Mr.K.Ramaiah

J U D G M E N T

[Judgment of the Court was made by The Hon'ble CHIEF JUSTICE]

The present Writ Appeal is filed against the order passed by the learned Single Judge dismissing the Writ Petition filed by the



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appellant. The appellant had filed W.P.(MD)No.24481 of 2023 challenging the order of transfer from Valliyoor Branch to Tiruchendur Branch. The learned Single Judge dismissed the Writ Petition.

2. The learned counsel for the appellant strenuously contends that the transfer policy is not being followed. It is only because the charge memo is issued to the appellant, the transfer is effectuated. The charge memo is issued on 27.09.2023 and the appellant is transferred on 28.09.2023. The appellant applied for casual leave on 26.09.2023 and 27.09.2023. As such, the allegation that the petitioner disturbed the bus services in Valliyoor Bus Depot on 27.09.2023 is factually incorrect. The transfer is punitive in nature. No proper reasons are recorded or opportunities are given to the appellant before the transfer is effectuated.

3. We have considered the submissions canvassed by the learned counsel for the parties. We have also perused the orders passed by the learned Single Judge.

4. The transfer of the appellant from Valliyoor Branch to Trichendur Branch is at the distance of 40/50 kms. The order of transfer suggests that the transfer is on administrative ground. It is



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not disputed that since the date of joining i.e., 14.08.2012, the appellant is working at Valliyoor Branch. For almost 12 years, the appellant is working at the said branch. The transfer policy, it appears, is that an employee may not be transferred before rendering 3 years of service. Here, the appellant has rendered almost 12 years of service at one place.

5. The judgment relied by the learned counsel for the appellant in a case of **S.Senthamizh Selvan Vs. The Senior Manager and another in W.P.No.28696 of 2022 dated 30.11.2022** is on a different premise. In the said case, the appellant therein had raised an industrial dispute and he was transferred to a distance of 813 kms., wherein, even the language spoken was different. In the said matter, the conciliation proceedings were pending before the Industrial Court/Labour Court. The Court considered the said aspect.

6. The another judgment relied by the learned counsel is in a case of **Somesh Tiwari Vs. Union of India and others** reported in **(2009) 2 SCC 592**. In the said case, the Apex Court found that the transfer is a *malafide* exercise of power and same is a punitive transfer. In that context, the Apex Court observed that the Court can



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exercise its power of judicial review and can interfere with the order of transfer.

7. The transfer is an incident of service. The appellant does not have a vested right to be at one place.

8. The learned Single Judge has observed that the transfer is not a punitive transfer and that no rules governing transfer policy are violated.

9. In the light of that, no case is for interference.

10. Accordingly, the Writ Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[S.V.G.,C.J.]

[P.D.B., J.]

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Index : Yes / No
Neutral Citation : Yes / No
RM



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THE HONOURABLE CHIEF JUSTICE
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