



W.A.(MD)No.482 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.06.2025

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

AND

THE HONOURABLE **DR.JUSTICE A.D.MARIA CLETE**

W.A.(MD)No.482 of 2020

and

C.M.P.(MD)No.3493 of 2020

1.The General Manager,
Tamil Nadu State Transport Corporation,
(Madurai) Limited, Madurai Division,
Madurai.

2.The Branch Manager,
Tamil Nadu State Transport Corporation,
(Madurai) Limited, T.Kallupatti Branch,
Madurai.

... Appellants

-Vs-

1.J.Prabakaran
2.T.Arumugasamy

... Respondents

PRAYER: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 13.11.2018 made in W.P.(MD)No.4687 of 2014 on the file of this Court.



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For Appellants : Mr.J.Senthil Kumaraiah

For R1 : Mr.K.Appadurai

JUDGMENT

[Judgment of the Court was delivered by ***S.M.SUBRAMANIAM, J.***]

The order of the Writ Court dated 13.11.2018 made in W.P.(MD)No.4687 of 2014 is sought to be assailed in the present intra-Court appeal.

2.The Tamil Nadu State Transport Corporation is the appellant before this Court. The 1st respondent was working as Driver in the appellant Corporation. He has affiliated to the political party and vide order dated 31.12.2013, he was transferred from T.Kallupatti to Thirupuvanam on administrative ground, since Thirupuvanam Branch required a Driver during the relevant point of time. Challenging the said transfer order, the 1st respondent has filed the said Writ Petition. The Writ Court has granted interim order of *status-quo* on 26.08.2014. However, the 1st respondent relieved from the post of Driver at T.Kallupatti on 06.03.2014. Thus, it is apparent that the order of *status-quo* was granted after reliving the 1st respondent from the post of Driver at T.Kallupatti.

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3.The Writ Petition was pending for about four years. The 1st respondent has not joined in the transferred place and remained absent. The departmental disciplinary proceedings were initiated against the 1st respondent, which ended with an order of punishment of stoppage of increment for two years without cumulative effect.

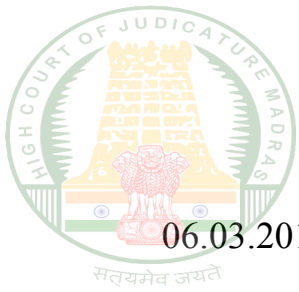
4.An employee, challenging the transfer order on his reliving, is expected to join in the place to which he was transferred. The pendency of the litigation cannot be a ground to remain absent from performing duties. Even after joining in the transferred place, the said employee can pursue his remedy before the Court of law. Contrarily, a public servant (in the present case Driver of a public Transport Corporation), is not expected to remain absent for long years. In the present case, the 1st respondent was relieved from the post on 06.03.2014 and the interim order of *status-quo* was granted in the Writ Petition only on 26.08.2014 after lapse of about five months from the date of reliving. By that time, the 1st respondent ought to have joined in the transferred place. But, he failed to do so, which resulted in initiation of departmental disciplinary proceedings.



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5.The writ Court passed final orders, quashing the order of transfer by preserving the rights and liberty of the Transport Corporation to transfer the 1st respondent to any other place as per relevant rules. Transfer order was quashed mainly on the ground of *mala fide*. Further direction was issued by the writ Court that the salary for the entire period of absent is to be paid to the 1st respondent by the Corporation. However, there is no direction to regularize the period of absent. As per the Service Rules, only in the event of regularizing the period of absent, the authorities competent have to decide as to whether full salary is to be paid for the period of absent or otherwise. High Court in exercise of the power of judicial review cannot direct the Corporation to pay salary for the period during which the employee was absent without even regularizing the period of absent as duty as per the rules applicable to the Corporation employees.

6.Transfer is an incidental to service, more so, condition of service. Therefore, the judicial interference in administrative transfers is normally not entertained. An order of transfer can be challenged no doubt on the ground of *mala fide*. In the present case, the transfer order was quashed on the ground of *mala fide*. However, the writ Court has granted relief beyond the scope of the Writ Petition by issuing a direction to the appellant Corporation to pay salary for the entire period of absent along with interest at the rate of 7.5 % from



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06.03.2014. Such a relief granted is violative of the service jurisprudence. Since

an employee remained absent and the period of absent has not been regularized, salary alone cannot be directed to be paid.

7.In the present case, departmental disciplinary proceedings were initiated for the charge of absent and punishment was imposed. Admittedly, the 1st respondent remained absent, only on the basis that an order of *status-quo* was granted by the writ Court. But the 1st respondent was relieved from service on 06.03.2014 and the interim order of *status-quo* was granted on 26.08.2014. Thus, there is no reason to remain absent from joining in the transferred place by the 1st respondent.

8.In any angle, the order impugned passed by the writ Court is not in consonance with the established principles of service jurisprudence. Mere filing of a complaint by an employee cannot be considered as *mala fide* for issuing an order of transfer. The ground of *mala fide* is to be established beyond any doubt and mere complaint by an employee against a higher officer alone cannot be a ground for forming an opinion that the transfers are issued on *mala fide* ground. Thus, the reasons for arriving a conclusion are also insufficient in the opinion of this Court.



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9. For all these reasons, the order of the writ Court dated 13.11.2018 made in W.P.(MD)No.4687 of 2014 is set aside and accordingly, this Writ Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

[S.M.S, J.] & [A.D.M.C., J.]
25.06.2025

NCC : Yes / No
Index : Yes / No

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