

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 13731 of 2001

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DATED:20-08-2005

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BETWEEN:

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G. Ravi Kumar, S/o. Ankaiah,

Occ: Conductor, Nellore,

Nellore District. ...Petitioner

And

A.P.S.R.T.C., Rep.by its

Vice-Chairman and Managing Director,

Musheerabad, Hyderabad and two others ... Respondents

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 13731 of 2005

ORDER:

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Challenging the order dated 20-06-2005 passed by the second respondent in transferring the petitioner to Kavali Depot from Nellore – II Depot as illegal and arbitrary, the present writ petition is filed.

The petitioner was placed under suspension while he was working as Conductor at Nellore – II depot for certain irregularities. After revoking the order of suspension, the Divisional Manager transferred him from Nellore – II depot to Nellore - I depot. On the objection raised by the union that he cannot be posted in the same place where

he committed irregularity, the impugned order has been passed. Hence, this writ petition.

Learned counsel for the petitioner contended that in the middle of the academic year, the petitioner cannot be transferred and that the Divisional Manager has no authority to affect the transfer within the same division. In support his contention, he placed strong reliance on the decision reported in “***DIRECTOR OF SCHOOL EDUCATION, MADRAS AND OTHERS v. O. KARUPPA THEVAN AND ANOTHER.***”

On the other hand, the learned standing counsel for the respondents contended that the transfer is not only an incident of service, but also one of the service conditions. Since the petitioner was placed under suspension, it is not desirable to place him at the same place where he was working prior to the suspension, and perhaps that is the reason why the Divisional Manager transferred him to Kavali Depot from Nellore – II Depot, which is not far away from Nellore and no malafides can be attributed against the Divisional Manager to entertain the writ petition, and hence, the writ petition is devoid of merits and is liable to be dismissed.

Under the impugned proceedings, the petitioner was transferred from Nellore – II Depot to Kavali Depot. The reason for passing the order impugned is only in view of the objection raised by the Union that an employee cannot be posted in the same place where he committed the irregularities. It is a settled proposition of law that the authorities will not generally interfere with the administrative affairs, unless there is irregularity or arbitrariness. Apart from that, the matter pertaining to the transfers is not only an incident of service, but also one of the service conditions, where under an employee cannot claim the retention or transfer as a matter of right.

However, the citation relied upon by the learned counsel for the petitioner in support of his contention reads as under:

“The Tribunal has erred in law in holding that the respondent employee ought to have been heard before transfer. No law requires an employee to be heard before his transfer when the authorities make the transfer for the exigencies of administration. However, the learned counsel for the respondent, contended that in view of the fact that respondent’s children are studying in school, the transfer should not have been effected during mid-academic term. Although there is no such rule, we are of the view that in effecting transfer, the fact that the children of an employee are studying should be given due weight, if the exigencies of the service are

not urgent. The learned counsel appearing for the appellant was unable to point out that there was such urgency in the present case that the employee could not have been accommodated till the end of the current academic year. We, therefore, while setting aside the impugned order of the Tribunal, direct that the appellant should not effect the transfer till the end of the current academic year. The appeal is allowed accordingly with no order as to costs.”

The above decision has no application to the present facts of the case. That is a case where a regular transfer was affected in the middle of the year. But, in the instant case, the transfer was affected only as per the procedure and the precedents adopted to the effect that an employee should not be posted in the same place where he committed irregularities. The said procedure might be adopted only to avoid the influence if any, on the witnesses, at the time of enquiry. Except stating that the Divisional Manager has affected the transfer of the petitioner from Nellore – II depot to Kavali Depot, no malafides are attributed against him. Though, it is contended by the learned counsel for the petitioner that the Divisional Manager has no power to transfer an employee out of the region, but at the same time, it is an admitted fact that Divisional Manager has power to effect transfer of an employee from one division to another division. If that being the case, it can be inferred that it includes the powers to effect transfer of an employee within the division. Therefore, the order under challenge does not suffer from any infirmities.

At this stage, it is also brought to the notice of this court that the children of the petitioner are school going and their academic year has been affected. In view of the fact that Kavali is not a far place from Nellore, the above said submission needs no consideration. Therefore, the writ petition is devoid of merits and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

K.C.BHANU, J.

Dated: 20-08-2005.

