

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29/09/2004

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.11170 of 2004

and

WPMP No.13088 of 2004

M. Rajarathinam .. Petitioner

-Vs-

1. The General Manager

(Administration)

Tamil Nadu State Express

Transport Corp. Ltd.,

Madras 600 002.

2. The Branch Manager

Tamil Nadu State Express

Transport Corp. Ltd.,

Tirunelveli.

3. The Managing Director

Tamil Nadu State Express

Transport Corp. Ltd.,

Madras 600 002. .. Respondents

This writ petition is filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records pertaining to the transfer order passed by the first respondent in order No.016873/A2/SETCTN/2004/390 dated 27.3.2004 and to quash the same.

!For Petitioner : Mr.O.Venkatachalam

^For Respondents : Mr.Sahadevan

:ORDER

With the consent of both sides, the writ petition itself is taken up for disposal.

2. The petitioner has brought forth this writ application seeking a writ of certiorari to quash an order of transfer made by the first respondent Transport Corporation.

3. Heard the learned Counsel for the petitioner and also for the respondent. Affidavit in support of the petition is also perused.

4. Admittedly, the petitioner, on appointment, was working as a Security Guard under the respondent transport corporation at Tirunelveli. He

was served with a transfer order dated 27.3.2004 directing him to report to duty at Coimbatore, which is the subject matter of challenge before this Court in this writ petition.

5. The only contention put forth by the learned Counsel for the petitioner is that the transfer order was out of mala fide; that he was suspended by an order dated 24.2.2004 without adducing any reason whatsoever; that pending the suspension, the impugned order dated 27.3.20 04 was served on him; that necessitated by the said circumstances, the petitioner issued a telegraphic message to the management asking how he could join duty pending the suspension; and that on receiving the same, the management has issued a communication dated 29.3.2004 revoking the suspension and directing him to report to duty. Added further the learned Counsel that the petitioner's mother is 81 years old; that his wife underwent a surgery; that a reading of the transfer order does not make out any reason for such a transfer, and hence, the order of the first respondent has got to be quashed.

6. In answer to the above, it is contended by the management that it is true that the petitioner was suspended on 24.2.2004; but, the same was also revoked by the management on 29.3.2004; that it is also true that the order of transfer was issued on 27.3.2004, without taking into notice the fact that the suspension was in force; but, when it was brought to the notice of the management, immediately the suspension has been revoked, and he has been directed to report to duty at Coimbatore, and hence, the order under challenge has got to be sustained.

7. From the materials available, it would be quite evident that the petitioner was working as a Security Guard in the respondent management and was suspended by an order dated 24.2.2004, and the suspension was revoked on 27.3.2004, though served on the petitioner subsequently. There has also been an order of transfer on the same day namely 27.3.2004. Hence, the contention of the petitioner's side that pending the suspension, an order of transfer has been passed, and the same would be indicative of the mala fide cannot be countenanced.

8. Apart from the above, the contention of the petitioner that the order of suspension does not speak about any reason for suspension need not be considered, because the order of suspension is not the matter for adjudication, and it has also been revoked. The petitioner has been working as a Security Guard under the respondent management, which post is, no doubt, a transferable one. In the instant case, the petitioner, who is working in a public undertaking, cannot have any legal right to be posted forever at any particular place or place of his choice, since the said post itself is transferable from one place to other. Needless to say that the transfer of an employee in a transferable post under the service conditions is not only an incident, but a condition of service, necessary too in public interest and efficiency of the respondent Transport Corporation in public administration. While the petitioner is unable to show the existence of mala fide in this case, this Court is of the considered opinion that it is not a fit case where the order of the first respondent can be quashed. Therefore, the order of the first respondent is sustained.

9. Accordingly, this writ petition is dismissed. No costs. Consequently, connected WPMP is also dismissed.

Index: yes

Internet: yes

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nsv/

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