

(2012) 10 MAD CK 0186

Madras High Court (Madurai Bench)

Case No: Writ Petition (MD) No. 2534 of 2012

S.R. Rajan

APPELLANT

Vs

General Manager, Tamil Nadu
State Transport Corporation
(Kumbakonam) Limited

RESPONDENT

Date of Decision: Oct. 17, 2012

Citation: (2013) 2 LLJ 266 : (2013) 3 MLJ 36

Hon'ble Judges: Vinod K. Sharma, J

Bench: Single Bench

Advocate: T. Lajapathi Roy, for the Appellant; Pagalavan, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Vinod K. Sharma, J.

The petitioner prays for issuance of a writ in the nature of mandamus directing the respondents to consider the claim of the petitioner for re-transfer from Karaikudi to Paramakudi. The petitioner was appointed as Driver with the Tamil Nadu State Transport Corporation and was confirmed on 1.4.1996. The petitioner is holding the post of Branch Secretary (CITU) of Tamil Nadu State Transport Corporation, Paramakudi Branch.

2. It is submitted that on 6.11.2011, the Branch Manager was scolding an employee to force him to admit his guilt of misconduct. It is submitted that the Branch Manager was acting as a dictator and harassing the employees.

3. The employee reported this matter to the petitioner, being the Secretary of CITU, petitioner met the Branch Manager and requested him not to harass the employees and further told him that the employee was not guilty of any misconduct.

4. It is submitted that it was due to this that, the Branch Manager with a malicious intention transferred the petitioner from Paramakudi Branch.

5. The allegations of mala fide cannot be looked into, for the reason that the petitioner has not impleaded the Branch Manager as party to this writ petition. It is well-settled law that no allegation of mala fide can be looked into without the person being made as a party to the writ petition.

6. The petitioner on an earlier occasion had filed a writ petition in this High Court, which was dismissed. The petitioner preferred a writ appeal which was also dismissed with the observation that the representation of the petitioner was not considered.

7. Taking advantage of the observation of this Court, the petitioner has filed the second writ petition on the ground that the representation has not been considered.

8. The petitioner has no legal right to seek re-transfer as it is prerogative of the employer to post an employee according to exigency of service and in public interest.

9. This Court cannot interfere with the order of transfer, unless it is mala fide or it is contrary to any statutory rules or regulations. In this case the writ petition as well as the writ appeal filed by the petitioner against transfer was dismissed on earlier occasion.

10. The allegations of mala fide cannot be looked into for want of person against whom allegations are made being party. Furthermore, the writ petition earlier filed by the petitioner was dismissed by this Court in the earlier round of litigation. In absence of any enforceable right, this Court cannot issue a Writ in the nature of mandamus even to consider the representation filed by the petitioner having no force of rule. Mere observation of this Court after dismissing the writ petition, does not give any legal right to the petitioner to re-agitate the concluded matter. The object of such observations is only to give liberty to state to take a decision in the matter irrespective of the dismissal of writ, but it cannot give right to an employee to file a fresh writ petition on the same cause of action.

11. No merit. Dismissed. No costs.