

THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI

WRIT PETITION No.15175 of 2020

ORDER:

This Writ Petition is filed seeking to set aside the order, dated 25.08.2020 transferring the petitioner from Korutla Depot to Banswada Depot, with a consequential direction to the respondents to allow the petitioner to work in the 3rd respondent - Korutla Depot.

2. I have heard the submissions of Sri V.Narsimha Goud, learned counsel for the petitioner and Sri Gaddam Srinivas, learned Standing Counsel for TSRTC appearing for the respondents and perused the record.

3. Case of the petitioner is that he joined the service of the respondents - Corporation in the year 1991 as a Shramik and later promoted as Mechanic in the year 1994. While he was working as such in the 3rd respondent-depot, a charge sheet was issued alleging that on 25.06.2020 and on 26.06.2020 the petitioner celebrated his birthday in the depot garage by gathering 22 employees and distributed sweets and cakes by violating the Covid-19 guidelines, which is against Reg. 28(xvii) (xx) & (xxii) of TSRTC Employees' (Conduct) Regulations, 1963. On the said allegation, he was transferred from Korutla Depot to Banswada Depot.

4. The respondents filed counter affidavit stating that the transfer of the petitioner was made on administrative grounds as there was shortage of Mechanics at Banswada Depot, but it was not made as a measure of punishment.

5. It is contended by the learned counsel for petitioner that the petitioner was transferred as a punitive measure but not on administrative grounds, by alleging that he has violated the Covid-19 guidelines by celebrating his birthday in the office by gathering 22 employees. It is his case that inasmuch as the petitioner is transferred as a punitive measure, such action of respondents is not maintainable. In support of his contentions, the learned counsel for the petitioner has relied on the following judgments;

1. **Mohinder Singh Gill and Ors. Vs. The Chief Election Commissioner, New Delhi and Ors.**¹
2. **Somesh Tiwari Vs. Union of India (UOI) and Ors.**²
3. **J.Ravinder Vs. The Regional Manager, A.P.S.R.T.C., Karimnagar Region and Ors.**³
4. **P.Karunakaran v. The Union of India and others**⁴

The substance of those judgments is that if the transfer of an employee is the result of any *mala fide* intentions, Courts can interfere with such transfer. The above judgments are squarely applicable to the case of the petitioner herein.

¹ AIR 1978 SC 851

² AIR 2009 SC 1399

³ 1994(7) SLR 337

⁴ 2014 LAB.I.C.146

6. On the other hand, it is contended by the learned Standing Counsel for the respondents that the petitioner was transferred to Banswada Depot, only on administrative grounds, as there was shortage of Mechanics at the said depot. Therefore, such transfer cannot be interfered with. In support of his contentions, learned Standing Counsel for the respondents has relied on the following judgments.

1. **State of Punjab & others Vs. Joginder Singh Dutt⁵**
2. **National Hydroelectric Power Corporation Ltd Vs. Shri Bhagwan and Another⁶**
3. **Union of India (UOI) & others Vs. Janardhan Debanath and Others⁷**
4. **Shilpi Bose & others Vs. State of Bihar and Others⁸**
5. **Vidya Ram Vs. District Magistrate/ADM (Admin) Agra and others⁹**

7. The only question that arises for consideration in this writ petition is, whether the transfer of petitioner was made as a punitive measure as contended by the petitioner or it was made on administrative grounds as has been contended by the respondents.

8. A perusal of the impugned proceedings No.E3/813(12)/2020-KRZ, dated 25.08.2020 discloses that it refers to Lr.No.01/114(2)/2020-KRTL, dated 24.08.2020 which relates to the charge sheet issued to the petitioner by Respondent No.3 on

⁵ AIR 1993 SC 2486

⁶ (2001) 8 SCC 574

⁷ (2004) 4 SCC 245

⁸ AIR 1991 SC 532

⁹ Decided on 12.11.2003 by the Hon'ble High Court of Allahabad in Spl.A.No.1170 of 2003

10.08.2020 alleging violation of Covid-19 guidelines in the office premises. Therefore, this Court is of the considered view that the transfer of petitioner was made as a punitive measure but not on administrative grounds, as, if the same has been made on administrative grounds, the respondents ought not to have referred to the charges levelled against the petitioner. In **Somesh Tiwari's** case(2 supra) relied on by the petitioner, it is held by the Hon'ble Supreme Court that the transfer, which is ordinarily an incidence of service, should not be interfered with unless malafides are attributed to the authority passing such order. It is further held that when an order of transfer is passed in lieu of punishment, the same is liable to be set aside being wholly illegal.

9. The aforesaid judgment is squarely applicable to the facts of the present case, as in the present case also, the order of transfer is not made on administrative grounds but passed as a measure of punishment on the allegation that the petitioner had celebrated his birthday in the office, violating Covid-19 guidelines.

10. As stated above, it is settled law that Courts cannot interfere with transfers made on administrative grounds unless the same are vitiated by *mala fide* exercise of power. However, in view of the facts narrated above, as the transfer in the present case is the result of punitive measure being not proved through cogent evidence, the

judgments relied on by the learned Standing Counsel for respondents are not applicable to the facts of the present case. In view of the same, the impugned transfer order is liable to be set aside.

11. Accordingly, the writ petition is allowed setting aside the impugned proceedings No.E3/813(12)/2020-KRZ, dated 25.08.2020. The respondents are directed to allow the petitioner to work in the 3rd respondent-depot, with all consequential benefits. No costs.

Pending miscellaneous applications, if any, shall stand closed.

Date:07.08.2023
Ksk

JUVVADI SRIDEVI, J