

(2012) 11 RAJ CK 0026

In the Rajasthan High Court

Case No : Special Appeal (Writ) No. 1506 of 2012 in Civil Writ Petition No. 17955 of 2012

Mewa Ram Raigar

APPELLANT

Vs

The Rajasthan State Road Transport Corporation and Others

RESPONDENT

Date of Decision : 26-11-2012

Acts Referred:

Citation : (2012) 11 RAJ CK 0026

Hon'ble Judges : Narendra Kumar Jain, J;Arun Mishra, J

Bench : Division Bench

Advocate : Bharat Yadav, for the Appellant;

Final Decision : Dismissed

Judgement

1. Heard learned counsel for appellant. This intra court appeal is directed against order of Single Bench dated 5th November, 2012, whereby S.B. Civil Writ Petition No. 17955/2012 filed by petitioner/appellant challenging his transfer order dated 22nd August, 2012 from Tonk Depot to Kota Depot, has been dismissed.

2. Submission of learned counsel for appellant is that the respondent RSRTC has issued an Office Order dated 28th March, 2012, wherein it is provided that where a Conductor or Driver, is involved in the case of allowing the passengers without ticket and if passengers are less than two and amount of fare is less than Rs. 100, then he can be transferred within the same depot and an enquiry be initiated against him, which should be completed within fifteen days. Similarly, an order has also been passed in respect of matters where passengers are more than 5, but less than 10 and further where passengers are more than 10. He has submitted that case against the petitioner was that on 5th August, 2012, when his bus was checked, two passengers were found without ticket and the amount of fare was also Rs. 14. He, therefore, submitted that he should have been transferred within Tonk Depot itself and not from Tonk Depot to Kota Depot. Therefore, transfer order of petitioner is against the order of respondent itself, which should have been quashed by the Single Bench. He also submitted that in

similar circumstances, the Principal Bench of this Court at Jodhpur granted ex-parte stay order staying the transfer order, therefore, petitioner should have also been treated at par.

3. We have considered the submissions of learned counsel for the appellant.

4. Learned Single Judge considered both the submissions of learned counsel for petitioner and rejected the same. There is no dispute that the order of respondent dated 28th March, 2012 was not statutory in nature, therefore, it cannot be said to be a case of violation of any statutory rule. The petitioner has not alleged any malafide against any person in passing his order of transfer. The petitioner has no legal or statutory right, so as to enforce the same through the Court of Law. The petitioner's post is a transferable post. The Hon'ble Apex Court has settled the law in respect of transfer matters that it should not be interfered with, unless there is a violation of statutory rule or it is based on malafide action of the respondents. There is no violation of statutory rule and action of respondent has not been challenged on the ground of malafide. It is also relevant to mention that order passed by Single Bench at Principal Seat at Jodhpur is only an ex-parte interim order, which cannot be said to be a precedent of binding nature. Therefore, we find that reasons assigned by learned Single Judge for rejecting the writ petition of the petitioner are absolutely legal and justified and no interference in the same is called for. In view of above, we find no merit in any of the submissions of learned counsel for appellant. The intra court appeal is merit-less and the same deserves to be dismissed and is, hereby, dismissed in limine. Stay application No. 15436/2012 is also dismissed.