

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

WP(C).No. 6126 of 2012 (M)

PETITIONER(S):

**JOY.T.V,
THURUTHEL HOUSE, THANIPADAM,
P.O. CHUVANNAMANNU
THRISSUR.**

BY ADV. SRI.I.DINESH MENON

RESPONDENT(S):

- 1. DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD,
THRISSUR 680001.**
- 2. THE REGIONAL TRANSPORT OFFICER/
TAXATION OFFICER, THRISSUR 680001.**

R1 BY SRI.K.S.MANU (PUNUKKONNOOR)

R2 BY GOVERNMENT PLEADER SRI.SHYSON P.MANGUZHA

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

WP(C).No. 6126 of 2012 (M)

APPENDIX

PETITIONER(S) EXHIBITS

EXT.P1: TRUE COPY OF THE OLD RC BOOK OF KL-8 S 5319

EXT.P2: TRUE COPY OF THE NEW RC BOOK OF KL-8 S 5319

EXT.P3: TRUE COPY OF THE CIRCULAR DT 4/2/2006

EXT.P4: TRUE COPY OF THE NOTIFICATION DT 26/11/2005

EXT.P5: TRUE COPY OF THE REPRESENTATION DT 1/3/2012

EXT.P6: TRUE COPY OF THE INTERIM ORDER IN WPC NO.3932/2012 DT 23/2/2012

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 6126 of 2012

Dated this the 8th day of June, 2015

J U D G M E N T

The petitioner is the registered owner of a stage carriage bearing Reg.No.KL-8 S 5319, having a seating capacity of 28 in all. According to the petitioner, it is a light motor vehicle, but, it was classified as MPMV - Stage Carriage (MPMV-Medium Passenger Motor Vehicle), which is defined under Section 2(24) of the Motor Vehicles Act, 1988 as any public service vehicle or private service vehicle, or educational institution bus other than a motor cycle, invalid carriage, light motor vehicle or heavy passenger motor vehicle. The petitioner alleges that the respondents, taking a view that since the vehicle was classified as MPMV stage carriage, it did not fall within any of the categories against the number of persons in respect of whom welfare fund contribution has to be specified in the Motor Transport Workers Welfare Fund

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Act, compelled the petitioner to pay welfare fund contribution in respect of three employees in spite of the fact that the vehicle owned by the petitioner falls under the category of LMV - Stage carriage. The petitioner approached the 2nd respondent for classification in terms of the amended Act and the vehicle has been classified as LMV - Stage carriage on 17.10.2011. According to the petitioner, the unladen weight of the aforesaid vehicle is only 4,720 kg; and hence, it is qualified to be classified as a LMV - stage carriage. The petitioner points out that the circular issued on 04.02.2006 by the Motor Transport Workers Welfare Fund Board clearly mentioned that for heavy stage carriage vehicles, the employees is fixed as three and the employees' contribution is fixed as ₹1,050/-, whereas for light motor vehicle stage carriages, the number of employees is fixed as two and the contribution is fixed as ₹700/-. Similarly, the amendment brought into the Kerala Motor Transport Workers Welfare Fund Act, 2005 as SRO No.1036/2005 dated 26.11.2005 also

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provides that the average minimum number of employees fixed for light motor vehicles is two and the contribution is fixed as ₹700/-. According to the petitioner, merely because of the wrong endorsement in the Registration Certificate, he cannot be compelled to pay contribution for three employees; and he is entitled for adjustments for future payment of contribution of the excess amount paid for one employee from the date on which the SRO has commenced, i.e., from 26.11.2005. Though the petitioner highlighted all these aspects before the 2nd respondent, he insisted that the petitioner should continue paying for three persons and adjustment of the excess amount paid was not at all entertained by the 1st respondent. According to the petitioner, the insistence on the part of the 1st respondent to pay welfare fund contribution for three employees in respect of a light motor vehicle is in violation of the circular issued and the amendment brought into the Motor Transport Workers Welfare Fund Act. It is with this background, the

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petitioner has come up before this Court.

2. Arguments have been heard.

3. When the matter was taken up for hearing, the learned counsel for the 1st respondent invited my attention to SRO No.636/2014 dated 15.10.2014, by which an amendment has been brought out to the scheme. On the basis of the said amendment, the medium goods vehicles are also included within the purview of the scheme.

In the light of the above, the petitioner has no right to get the relief as prayed for. Therefore, the writ petition is dismissed.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-