IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 25TH DAY OF MAY 2015/4TH JYAISHTA, 1937

WP(C).No. 3408 of 2015 (A)

PETITIONER(S):

RAJENDRA KUMAR,
S/O.GOPALAKRISHNAN, NO.2/569, PUTHEN VEEDU,
CHERPLASSERY P.O., PALAKKAD DISTRICT.

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S):
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1. THE REGIONAL TRANSPORT OFFICER,
PALAKKAD-678 001.

2. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS' WELFARE FUND BOARD,
PALAKKAD-678 001.

3. THE MANAGING DIRECTOR,
M/S. MAYILVAHANAM ROAD TRANSPORTS,
MAIN ROAD, SHORNUR, PALAKKAD-679 121.

*** ADDITIONAL R4 IMPLEADED.**

4. THE ASSISTANT PROVIDENT FUND COMMISSIONER,
SUB REGIONAL OFFICE, BHAVISHYANIDHI,
P.B.NO.1806, ERANHIPALAM P.O., CALICUT - 673 006.

*** IMPLEADED AS PER ORDER DTD.27.2.2015 IN IA.NO.2990/2015.**

R1 BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA
R2 BY ADV. SRI.K.S.MANU, SC
R4 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 3408 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

P1- COPY OF THE PERMIT ISSUED IN FAVOUR OF THE PETITIONER.

P2- COPY OF THE RELEVANT PAGES OF THE RC BOOK.

P3- COPY OF THE CERTIFICATE ISSUED BY THE ASSISTANT PF COMMISSIONER DATED 12.11.2014.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms**v/**

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 3408 of 2015

Dated this the 25th day of May, 2015

J U D G M E N T

The petitioner, who is the owner of a stage carriage No.KL 51/6969 operating between Chalavara - Guruvayur, has approached this Court seeking positive direction to respondents to accept motor vehicle tax from the petitioner without insisting for payment of welfare fund contribution of the previous owner.

2. The petitioner alleges that originally, the aforesaid route permit was issued in favour of the 3rd respondent and the permit was transferred to the petitioner by the Regional Transport Authority based on an application submitted for transfer of permit. Pursuant to the transfer, the vehicle was also transferred to the petitioner. The petitioner is bound to register the vehicle with the 2nd respondent and only after getting the clearance certificate from the 2nd respondent, the

petitioner would be in a position to pay motor vehicle tax. The grievance of the petitioner is that when he approached the 2nd respondent, the 2nd respondent asked him to pay the arrears of the previous period. According to the petitioner, he is liable to pay the welfare fund contribution only from the date of effecting transfer of ownership since the 3rd respondent, who is the previous owner, was covered by the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (for short, “the Act). Therefore, according to the petitioner, he is liable to pay the welfare fund contribution only with effect from the date of effecting the transfer and the 2nd respondent cannot insist for payment to the welfare fund from the petitioner for the entire period.

3. Detailed counter affidavits have been filed by the respondent State as well as the additional 4th respondent.

4. In para 4 of the counter affidavit filed by the additional 4th respondent, it was alleged that the 3rd

respondent is an establishment covered by the Act with effect from 01.03.1997 under Code No.KR/17258. As per Ext.P3 certificate issued on 12.11.2014, the Provident Fund dues in respect of three employees of the establishment have been remitted for the period up to 09/2014. Ext.P3 certificate has been issued at the request of the employer to submit before the Kerala Motor Transport Workers' Welfare Fund Board, Palakkad.

5. In the light of the said averment in the counter affidavit filed by the additional 4th respondent, the learned counsel for the petitioner would submit that as the 3rd respondent was admitted to the Fund, the liability of the petitioner to pay contribution arises only with effect from 25.10.2014, the date on which the transfer has been effected. I see valid force in the submission.

In the result, the writ petition is disposed of declaring that the petitioner is liable to pay contribution to the 2nd respondent only with effect from 25.10.2014, the date on which the transfer has been effected. As the learned counsel for the petitioner undertaken to remit the amount, the 2nd respondent shall issue clearance certificate to the petitioner on remittance of contribution, which is actually due from the petitioner. Formal orders to this effect shall be issued within a period of two weeks from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-