

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 5126 of 2015 (M)

PETITIONER :

**JERIN THOMAS NINAN,S/O.NINAN THOMAS,
PUTHENPURAYIL HOUSE, NEDUMON,
EZHAMKULAM, PATHANAMTHITTA.**

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S):

- 1. THE REGIONAL TRANSPORT AUTHORITY,
REPRESENTED BY SECRETARY, PATHANAMTHITTA - 689 645.**
- 2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
PATHANAMTHITTA- 689 645.**

R1 & R2 BY GOVERNMENT PLEADER SRI.R.RANJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 5126 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: COPY OF THE PROCEEDINGS DATED 19.7.2014**
- EXT.P-2: COPY OF THE JUDGEMENT DATED 31.7.2014 OF THE TRIBUNAL IN
MVARP 153/2014**
- EXT.P-3: COPY OF THE TEMPORARY PERMITS ISSUED TO THE PETITIONER**
- EXT.P-4: COPY OF THE PROCEEDINGS DATED 11.12.2014**
- EXT.P-5: COPY OF THE RELEVANT PORTION OF THE RC BOOK IN RESPECT OF
VEHICLE NO.KL 25/4226.**
- EXT.P-6: COPY OF THE RELEVANT PORTION OF THE RC BOOK IN RESPECT
OF VEHICLE NO.KL 03 H/9900.**
- EXT.P-7: COPY OF THE APPLICATION WITH CHALLAN DATED 2.2.2015**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

K. VINOD CHANDRAN, J

W.P(C) No.5126 of 2015

Dated this the 25th day of February, 2015

J U D G M E N T

The petitioner is aggrieved by Ext.P4 order rejecting his application for replacement. The petitioner's application for replacement of vehicle was rejected as per Ext.P1 on the ground that the vehicle produced is an older model vehicle. The petitioner approached the Tribunal which, as per Ext.P2, directed that the age of the vehicle cannot be the sole consideration for rejection of replacement and reconsideration was directed.

2. When the matter was pending, the petitioner was operating in the route with the very same vehicle, as is evidenced by Ext.P3 series. Now the application for replacement has been rejected on the following ground:

“Secretary RTA has reported that at present this vehicle KL-03-H 9900 is found viable for conducting service on the permitted route. He has also made a relevant observation that “there is all possibilities of unexpected mechanical breakdowns and there by

frequent repairs even though this vehicle obtains certificate of fitness from time to time". This particular observation itself reveals the precarious condition of this 12 year old incoming vehicle. This authority feels that if this vehicle is found prone to unexpected breakdowns as the Secretary RTA reported the safety of the travelling public will be placed at high stakes.

Moreover the seating capacity of this vehicle is less than the outgoing vehicle, which will incur loss to the government exchequer."

3. On a reading of Ext.P4 order and on going through the report, which the learned Government Pleader has produced before me, this Court finds that it is only on a mere assumption that a 12 year old vehicle would be susceptible to frequent breakdowns that the replacement is rejected. There is no examination of the vehicle as such, to find that the vehicle is not one which is capable of operation on the road. In fact the Secretary has reported that the vehicle is "found viable" for service and then raised some

general apprehension on the ground of the age of vehicle. It is also to be emphasised that the fitness certificate granted for the vehicle is for every year and there is no warrant for such a presumption by the Secretary RTA when a vehicle is produced with a valid fitness certificate. It is also evident that the Government has permitted operation of vehicles for 15 years as stage carriages in roads within the State.

4. Further ground stated in Ext.P4 that the seating capacity is less than the outgoing vehicle, would be a consideration only if there is difference of 25% as is provided under Rule 174 of the Kerala Motor Vehicles Rules 1989.

5. In such circumstance, Ext.P4 is set aside. The petitioner's replacement shall be allowed as long as there is a valid fitness in force, and the 15 year period is not over.

Writ petition is allowed. No costs.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge