

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

WP(C).No. 21351 of 2006 (P)

PETITIONER :

**SAJI MATHEW,
POOVATHUMKAL HOUSE,
MALLAPPILLY P.O., PATHANAMTHITTA DT.**

BY ADV. SRI.MVS.NAMBOOTHIRY

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF LABOUR AND REHABILITATION (S) DEPARTMENT,
GOVERNMENT SECRETARIAT, TRIVANDRUM.**
- 2. THE KERALA MOTOR TRANSPORT WORKERS'
WELFARE FUND BOARD, REPRESENTED BY THE
CHIEF EXECUTIVE OFFICER, KERALA MOTOR TRANSPORT
WORKERS WELFARE FUND BOARD, KOLLAM -I.**
- 3. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD,
PATHANAMTHITTA.**

**R1 BY SR GOVERNMENT PLEADER SRI.BIJU MEENATTOOR
R2 & R3 BY ADV. SRI.P.RAMAKRISHNAN, SC,KMTWF BOARD**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE FINAL DETERMINATION ORDERS FOR THE VEHICLE KLB 1807, FOR THE PERIOD 1992 TO 1997.**
- P2 COPY OF THE FINAL DETERMINATION ORDER FOR THE VEHICLE KLB 1807 FOR THE PERIOD 2002-03**
- P3 COPY OF THE FINAL DETERMINATION ORDER RELATING TO THE VEHICLE KL-7 K 3888 FOR THE PERIOD 2002-03 AND 2003-04**
- P4 COPY OF THE MEMORANDUM OF APPEALS.**
- P5 COPY OF THE MEDICAL CERIFICATE ISSUED FROM ANIMA AYURVEDIC MEDICAL CENTRE.**
- P6 COPY OF THE ORDER PASSED BY THE APPELLATE AUTHORITY DATED 22/6/2006.**

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

K. VINOD CHANDRAN, J.
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W.P.(C) No.21351 of 2006 - P
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Dated this the 30th day of January, 2015

J U D G M E N T

The petitioner is aggrieved with Ext.P6 order passed by the Government, rejecting the appeals filed by the petitioner by a common order for reason of the petitioner having not appeared before the appellate authority. The appeals were filed against Exts.P1 to P4 final determination orders passed, with respect to two stage carriages, bearing registration Nos. KL-B/1807 and KL-7/K-3888.

2. Exts.P1 and P2 are respectively the final determination orders for the period 1992-97 and 2002-03, of the stage carriage vehicle having registration No. KL-B/1807. Exts.P3 and P4 are the final determination orders for the periods 2002-03 and 2003-04 respectively of

the vehicle bearing registration No. KL-7/K-3888.

3. The petitioner admittedly was the registered owner of both the vehicles. With respect to the vehicle having registration No. KL-B/1807, three employees were assessed, two drivers and one conductor. With respect to the vehicle having registration No. KL-7/K-3888, only two employees were assessed, since the petitioner, the registered owner claimed to have engaged himself as the spare driver. The petitioner hence, was exempted, since he was the owner/driver.

4. In the appeals filed by the petitioner, against the orders, two contentions are raised. One; of there being no enquiry conducted and two, the workers covered under the Act being not the employees of the petitioner. Even looking at the determination orders passed, it cannot be said that no enquiry was conducted. Ext.P1 indicates that the earlier orders passed were challenged by the petitioner before this Court and the petitioner was granted an

opportunity to present himself before the authority. The petitioner had also deposed before the authority, however, contending that only one out of the three employees of vehicle bearing registration No. KL-B/1807 was actually employed. That stage carriage operators were carried on by the petitioner is admitted and hence, definitely two drivers would have to be engaged, each for 15 days, in a month.

5. The petitioner has not sought for any exemption with respect to the vehicle bearing registration No. KL-B/1807. The exemption sought for in the other vehicle has been granted and only two employees were covered in KL-7/K-3888. The petitioner was given sufficient opportunity to adduce evidence and it is very clear that, an enquiry was conducted by the determination officer. Both the contentions are not sustainable. In any event, it is also to be noticed that Ext.P6 order was passed after sufficient notice to the petitioner, who chose not to appear before the

appellate authority.

6. For all the above reasons, this Court does not find any infirmity in Ext.P6 order. The petitioner, if approaching the respondent authority, within a period of one week from today, shall be issued with a statement of dues; after giving credit to any amounts deposited by virtue of the interim order passed herein. The petitioner shall remit the said amounts in six monthly instalments starting from 02.03.2015 and followed up on the first of every months. If two consecutive defaults are committed, the respondent shall be entitled to proceed for recovery.

The writ petition would stand dismissed, with the above directions.

Sd/-
K. VINOD CHANDRAN,
JUDGE

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P.A to Judge.