

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

WP(C).No. 22114 of 2012 (L)

PETITIONER(S):

**BIJU THOMAS, AGED 45 YEARS
S/O THOMAS, MUNDACKAL HOUSE, MATTAKUZHI KARA
VARIKOLI P.O, THIRUVANIYLOOR VILLAGE
PIN- 682308 (REGISTERED OWNER OF KL 40/9463**

**BY ADVS.SMT.LATHA T.THANKAPPAN
SRI.K.C.PAULOSE**

RESPONDENT(S):

- 1. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD
ERNAKULAM 682025**
- 2. THE JOINT REGIONAL TRANSPORT OFFICER,
PERUMBAVOOR -683548**

**R1 BY ADV. SRI.P.RAMAKRISHNAN, SC,KMTWWF BOARD
R BY GOVERNMENT PLEADER SRI. RAFEEK.V.K**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13-03-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 22114 of 2012 (L)

APPENDIX

PETITIONERS EXHIBITS

EXT.P1 COPY OF THE REGISTRATION CERTIFICATE OF KL-40/9463

RESPONDENTS EXHIBITS

NIL

TRUE COPY

P.A TO JUDGE

SMM-

A.V.RAMAKRISHNA PILLAI,J

.....
W.P.C. No.22114 of 2012

.....
Dated this the 13th day of March,2015.

J U D G M E N T

Aggrieved by the non acceptance of contribution to the Kerala Motor Transport Workers Welfare Fund, the petitioner who is the registered owner of a medium goods vehicle has come up before this Court.

2. The petitioner is the registered owner of medium goods vehicle bearing Reg.No.KL-40/9463. According to the petitioner, there is only one employee who was engaged as driver. According to the petitioner, he was regularly paying contribution to the first respondent board at the rate of Rs.200/- per month. The petitioner points out that when he approached the first respondent for remittance of the contribution for the month of July, August, September, 2012, the 1st respondent refused to accept the same stating that contribution for one more worker in addition to the

driver is required in respect of the goods vehicle belonging to the petitioner. The petitioner clarified that there is only one employee engaged as driver in this vehicle and no other employee is engaged. According to the petitioner, in addition to the driver an attendant is required in respect of a goods vehicle only in the case of heavy goods vehicle as could be seen from Rule 368 of the Kerala Motor Vehicles Rules, whereas the petitioner's vehicle is not a heavy goods vehicle and there is no other employee except one driver. It is with this background the petitioner has come up before this Court.

3. Arguments have been heard.

4. The learned Standing Counsel for the first respondent relying on the statement contended that though the act and scheme does not prescribe the number of employees to be employed in the medium goods vehicle, by taking into the fact that the medium goods vehicle cannot be considered as a light vehicle since the unladen weight exceeds 7500 kg and the same was considered as heavy

goods vehicle and contribution was fixed with respect to two employees by reckoning the employment of an attendant as per Rule 368 of the Kerala Motor Vehicles Rules. Therefore, according to the respondent any other averment and contentions contrary to the above is unsustainable and untenable.

5. The learned Standing Counsel for the first respondent also invited my attention to Ext.R1(a), which is a true copy of the notification dated 21-10-2014 published in the Kerala Gazette dated 21-10-2014, by which the Government had made an amendment to paragraph 28 of the Table by including medium goods vehicles also. In this context, the learned Counsel for the petitioner submitted that Ext.R1(a) has no retrospective operation though it has come into effect on 21-10-2014. In the light of the facts placed on record, this Court is of view the petitioner is liable to pay contribution only at the rate of Rs.200/- till the date of amendment and at the rate Rs.300/- from the date on which the amendment came into force.

In the result, the writ petition is disposed of permitting the petitioner to remit contribution at the rate of Rs.200/- till 21-10-2014 and at the rate of Rs.300/- thereafter.

Sd/-
A.V.RAMAKRISHNA PILLAI,
JUDGE

smm

