

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 24TH DAY OF JUNE 2015/3RD ASHADHA, 1937

WP(C).No.18686 of 2015 (I)

PETITIONER:

**SALIM O.K.,S/O.KHADER,OLICKAL HOUSE,
KUMBUMKALLU,THODUPUZHA.**

BY ADV.SRI.O.D.SIVADAS

RESPONDENT'S:

- 1. THE SECRETARY,REGIONAL TRANSPORT AUTHORITY,
IDUKKI-685601.**
- 2. JOBY M.JOHN,MUNDACKAL HOUSE,
EZHUMUTTOM P.O.,THODUPUZHA-685583.**
- 3. MARIA JOBY,JOBY SADANAM HOUSE,
KONNI P.O.,PATHANAMTHITTA-689645.**

R1 BY GOVT. PLEADER SMT.K.A.SANJEETHA.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-06-2015,ALONG WITH W.P(C) NO.18845/2015 THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:**

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WP(C).No.18686 of 2015 (I)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE TIME SHEET ISSUED TO THE PETITIONER
DATED 30.5.2007.

EXT.P2: COPY OF THE TIME SHEET ISSUED TO THE 2ND RESPONDENT.

EXT.P3: COPY OF THE PROCEEDINGS DATED 20.6.2014.

EXT.P4: COPY OF THE ORDER DATED 18.4.2015.

EXT.P5: COPY OF THE REQUEST DATED 30.5.2015 SUBMITTED BY THE
PETITIONER.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

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A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) Nos.18686 & 18845 of 2015

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Dated this the 24th day of June, 2015

JUDGMENT

In W.P(C) No.18686 of 2015, the petitioner is aggrieved by Ext.P3 order passed by the 1st respondent resettling the timing at the request of the 2nd respondent. W.P(C) No.18845 of 2015 is filed challenging Ext.P2 order of the State Transport Appellate Tribunal in a revision petition filed by the 3rd respondent impugning Ext.P1 order of the 1st respondent.

2. The petitioner in W.P(C) No.18686 of 2015 is an existing operator on the route Thodupuzha-Erattupetta, and the permit is issued in respect of the stage carriage bearing No.KL 44 A/145. The petitioner in that writ petition alleges that he is conducting the service based on the timings settled on 30.5.2007. The 2nd respondent in that writ petition is operating services on the route Vannappuram-Erattupetta as per the timings allotted on 3.10.2002. The 2nd respondent applied for revision of timings of his service in order to settle the time clash. Hence, a timing conference was convened on 20.6.2014 and a new set of timings was allotted to the

2nd respondent as per a circular issued by the Transport Commissioner by Ext.P3.

3. According to the petitioner, the application of revision of timings submitted by the 2nd respondent did not disclose any circumstances warranting revision. He alleges that an omnibus application without specifying the reasons warranting revision of timings is not possible and the 1st respondent cannot entertain this application and revise the existing timings. The petitioner further alleges that there was no subsequent changes on the sector like surrender of permit of introduction of further services warranting revision of timings as per Rules. He states that apart from the above, the original timing allotted to the 2nd respondent has become final and there was no challenge against the same. Therefore, the 1st respondent without any order has no authority or jurisdiction for entertaining an application submitted by the 2nd respondent for revision of timings and to resettle the timings.

4. The petitioner points out that it is settled law that the timings of an existing operator could be revised when there is changed circumstances warranting such revision. In the above circumstances, Ext.P3 proceedings of the 1st respondent is illegal

and therefore, the petitioner submitted an objection to the said timing and the same is still pending; it is alleged. The petitioner further points out that in the light of the order of the Tribunal, the timing conference is scheduled to be held on 25.6.2015. It is with this background, the petitioner has filed this writ petition.

5. W.P(C) No.18845 of 2015 is filed alleging that on 20.6.2014, the 1st respondent in exercise of powers conferred under Rule 212 of the KMV Rules, 1989 convened a timing conference with notice to all en-route operators and approved a timing schedule for operation of the 2nd respondent's stage carriage from the above mentioned route. The petitioner in that writ petition alleges that by virtue of the said exercise, the timings of his service approved initially on 3.10.2002 was revised by Ext.P1 after observing all statutory requirements.

6. Ext.P1 time schedule was approved after hearing all the affected parties, including the petitioner herein; it is alleged. However, the 2nd respondent was not satisfied with the modifications made by the 1st respondent by Ext.P1 even though the very exercise was undertaken on an application filed by him and taking note of the change in circumstances since the last revision

effected in the year 2002. Therefore, the 2nd respondent desired a further revision.

7. For this, the 2nd respondent set up the 3rd respondent to file a revision petition under Section 90 of the Act before the STAT challenging Ext.P1; it is alleged. The revision petition was taken into file as MVARP No.115 of 2014. However, the revision was filed with respondents 1 and 2 only in the party array. On 18.4.2015, the STAT proceeded to allow the revision petition on the ground that respondents 2 and 3 do not have any serious objection in a direction being given to the 1st respondent to reconsider the matter afresh without unsettling the timings fixed as per the impugned order. The petitioner further alleges that the facts leading to Ext.P2 were made known to the petitioner only when a notice was published in the notice board of the 1st respondent's office proposing to convene a timing conference on 25.6.2016.

8. Arguments have been heard.

9. This Court while disposing of WPC No.14675 of 2015 permitted the petitioner therein to participate in the timing conference so that he could project his objection before it. It was further directed that whatever objections raised by the petitioner in

that writ petition as well as the party respondent could be considered in the conference. There was a further direction to convene the timing conference at the earliest under intimation to whole, at any rate, within a period of two weeks.

10. The learned Government Pleader, on instructions, submitted that the timing conference is scheduled to be held on 25.6.2015. Therefore, this Court is of the view that the matter can be left open to be decided by the Secretary of the Regional Transport Authority, Idukki

Therefore, the writ petitions are disposed of remitting the case back to the Secretary of the Regional Transport Authority, leaving all questions open to be decided by him. The parties are at liberty to ventilate all their contentions before the Secretary. All objections raised by the parties shall also be taken into account while considering the matter by the Secretary.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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