

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 26606 of 2014 (A)

PETITIONER(S):

SAJEESH BABU, AGED 44 YEARS,
S/O APPUKUTTAN, RESIDING AT CHANDRA BHAVAN
ARUVIKUZH P.O.

BY ADV. SRI.P.DEEPAK

RESPONDENT(S):

1. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY, KOTTAYAM 686001.

2. ANOOP SIVARAM,
THIRUVATHIRA, NATTASSERY, S.H MOUNT
KOTTAYAM 686105.

3. T.J. THOMAS,
REGIONAL TRANSPORT OFFICE, PALAKKAD (FORMERLY
REGIONAL TRANSPORT OFFICER, KOTTAYAM) 678001.

* ADDL.R4 IMPEADED

4. K.M.THOMAS, KURUMULLOOMTHADATHIL,
KANAKARY, ETTUMANOOR, KOTTAYAM (WITH S/C KL 5/AB 2010).

ADDL.R4 IMPEADED AS PER ORDER DATED 10/12/2014 IN IA.16703/2014

R1 BY GOVERNMENT PLEADER SRI.R.RENJITH
R 4 BY ADV. SRI.G.PRABHAKARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 26606 of 2014 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE TIME SCHEDULE APPROVED FOR OPERATION OF
THE PETITIONER'S SERVICE DT.7/12/11**
- EXHIBIT P2 TRUE COPY OF THE PROCEEDINGS OF THE IST RESPONDENT DATED
13-12-2007**
- EXHIBIT P3 TRUE COPY OF THE PROCEEDING OF THE IST RESPONDENT DATED
10-03-2014**
- EXHIBIT P4 TRUE COPY OF THE PROCEEDING OF THE IST RESPONDENT DATED
20-03-2014**
- EXHIBIT P5 TRUE COPY OF THE ATTENDANCE REGISTER (RELEVANT EXTRACT)
FOR 20-03-2014**
- EXHIBIT P6 TRUE COPY OF THE COMMUNICATION DATED 27-09-2014**

RESPONDENT(S)' EXHIBITS

- EXHIBIT R4(A): TRUE COPY OF THE TIME SHEET OF THE ADDL.R4 SERVICE ON THE
ROUTE KOTTAYAM-MECHAL WITH STAGE CARRIAGE KL.5/AB-2010.**

/ TRUE COPY /

P.S. TO JUDGE

PJ

K.VINOD CHANDRAN, J

W.P.(C).No. 26606 of 2014

Dated 12th March, 2015

JUDGMENT

The petitioner a stage carriage operator having a regular permit in the route Kottayam-Rajakkad is aggrieved by the revision of timings made to the 2nd respondent. The 2nd respondent has not appeared in the proceedings despite notice. However, the additional 4th respondent seems to be aggrieved by the proceedings now taken by the petitioner.

2. The brief facts to be noticed are that by Ext.P1 permit, the petitioner's operation commences at 6.50 am from Kottayam and Ext.P2 issued to the 2nd respondent indicates, commencing of operation at 6.52 am., ie, two minutes after the petitioner. The petitioner does not have any difficulty in the same since the operation of the 2nd respondent commences

only two minutes after the petitioner's stage carriage leaves Kottayam. In implementation D3 Circular, there was a revision effected on 10.03.2014 wherein the departure time of the 2nd respondent's vehicle from Kottayam remained as 6.52 am. The petitioner is aggrieved by a further revision made at Ext.P4, since by the revision itself the 2nd respondent's vehicle would operate in front of the petitioner's vehicle for reason of the departure from Kottayam being at 6.47 am. The contention of the petitioner is that, Ext.P4 was one without jurisdiction since Ext.P3 had already settled the timings of the petitioner. The petitioner also contends that the petitioner ought to have been heard before such timing conference was convened.

3. The learned counsel appearing for the additional 4th respondent, however, refutes the contention of the petitioner on the ground that

Ext.P4 was at his instance. The additional 4th respondent also is an operator in the very same route whose timings had been settled by Ext.R4 (a) wherein he departs from Ettumanur at 7.32 am., almost at the same time, as the petitioner and the 2nd respondent. The additional 4th respondent specifically contended that he was not heard when Ext.P3 was passed.

4. In any event, it has to be noticed that Ext.P3 and Ext.R4(a) were passed on the same date, ie, on 10.03.2014. It is not revealed as to whether the additional 4th respondent was heard by the authority or not. However, it is trite that the timing conference having been convened and timings settled, there can be no revision possible on an objection being filed. The right royal remedy to challenge a settlement of timings is to approach the Tribunal under the revisional jurisdiction as provided under Section 90 of the Motor Vehicles Act, 1988.

Additional 4th respondent could have left remedy to file such a revision, *de hors* the delay caused against Ext.P3 order. The additional 4th respondent would also seek revision of his timings as per Ext.R4(a) before the Original Authority. However, for the present, the 2nd respondent can be permitted to operate only as per Ext.P3 timings. Ext.P4 is hence set aside.

The writ petition is disposed of leaving open the remedy of the additional 4th respondent. Parties are left to suffer their respective costs.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

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