

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

W.P.(C).No.28762 of 2014 (U)

PETITIONER(S):

SHABEER. P., AGED 33 YEARS,
SHABEER MANZIL, MARATHAKKAD, KUPPAM P.O.,
TALIPARAMBA, KANNUR.

BY ADV. SRI.G.PRABHAKARAN.

RESPONDENT(S):-

1. THE JOINT REGIONAL TRANSPORT OFFICER,
TALIPARAMBA - 670 141.
2. THE DEPUTY TRANSPORT COMMISSIONER,
NORTH ZONE, KOZHIKODE.

R1 & R2 BY GOVERNMENT PLEADER SRI.R.RANJITH.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXT.P-1: TRUE COPY OF THE INVOICE DATED 14.9.2013.
- EXT.P-2: TRUE COPY OF THE BRIEF TECHNICAL SPECIFICATION TABLE 7
OF AIS007.
- EXT.P-3: TRUE COPY OF THE CERTIFICATE ISSUED BY THE AUTOMOTIVE
RESEARCH ASSOCIATION DATED 31.8.2010.
- EXT.P-4: TRUE COPY OF THE LETTER OF THE TRANSPORT COMMISSIONER
DATED 29.1.2011.
- EXT.P-5: TRUE COPY OF THE TEMPORARY REGISTRATION WITH ITS
NO.KL 11/AV-TEMP-1325 DATED 19.9.2013.
- EXT.P-6: TRUE COPY OF THE CERTIFICATE ISSUED BY THE KALLAI
CRANE WORK.
- EXT.P-7: TRUE COPY OF THE ORDER OF THE JOINT R.T.O TALIPARAMBA,
WITH ITS ORDER NO.R1/1408/2014/TPBA DATED 13.5.2014.
- EXT.P-8: TRUE COPY OF THE APPEAL MEMORANDUM ALONG WITH
PETITION DATED 30.8.2014.
- EXT.P-9: TRUE COPY OF THE ORDER OF THE DEPUTY TRANSPORT
COMMISSIONER WITH ITS ORDER NO.C/2097/2014/ DATED 19.9.2014.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J.

W.P(C) No.28762 of 2014-U

Dated this the 10th day of April, 2015

JUDGMENT

The petitioner is aggrieved with the dismissal of the appeal filed by the petitioner by Exhibit P9, citing the reason of delay. A reading of Exhibit P9 would indicate that the appellate authority rejected it since the order against an order dated 13.05.2014 is said to have been filed on 05.09.2014. The petitioner's specific contention is that Exhibit P7 order, which was in appeal, was an *ex parte* order and he received it only in August, 2014 and he had filed the appeal within the time provided in the statute.

2. A reading of Exhibit P7 order would indicate that the same was an *ex parte* order issued only on 14.05.2014, the date endorsed with the signature. The specific contention raised by the Department in the statement filed is that, the order was received by the petitioner on 14.05.2014. Especially since the order was passed on 13.05.2014 and the petitioner was *ex parte*, there is no possibility of the order having been received by the petitioner on 14.05.2014 itself. In fact the Department does not have a contention that the order was despatched by post or otherwise to the petitioner's last known address also. In such circumstance, it is difficult to find that the order

was issued to the petitioner on 14.05.2014 especially in the teeth of the contention of the petitioner that on coming to know of it and on approaching the authority to know the fate of his application, in August, 2014, the order was issued. There is no denial of the said allegation raised in the writ petition.

3. In the above circumstance, it is only proper that Exhibit P9 order is set aside and the appellate authority directed to consider the appeal on merits. The petitioner shall appear before the appellate authority on 24.04.2015 with a certified copy of this judgment and the office of the appellate authority shall intimate a date of hearing to the petitioner, on which date the petitioner shall be present before the appellate authority without any further notice being issued by the appellate authority. It is made clear that this Court has not observed anything on merits. The appellate authority shall dispose of the matter within three months from the date of receipt of the certified copy of this judgment.

The writ petition is disposed of as above.

Sd/-
K. Vinod Chandran,
Judge

vku/

[true copy]