IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(C).No. 33332 of 2010 (N)

PETITIONER :

SREEREKHA.M, W/O.MOHANKUMAR,
MANOOR HOUSE, MARADU P.O., ERNAKULAM.

BY ADV. SRI.I.DINESH MENON

RESPONDENTS :
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1. THE SECRETARY,REGIONAL TRANSPORT
AUTHORITY, TRIPPUNITHURA-682301.

2. THE DISTRICT EXECUTIVE OFFICER,
ADDITIONAL DISTRICT EXECUTIVE OFFICE,
KERALA MOTOR TRANSPORT WORKERS WELFARE,
FUND BOARD, ERNAKULAM, 682 025.

R1 BY GOVERNMENT PLEADERSRI. V.K. RAFEEQ
R2 BY SRI.P.RAMAKRISHNAN, SC,

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10-02-2015,ALONG WITH WPC.NO.7121 OF 2011, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 33332 of 2010 (N)

APPENDIX

PETITIONER'S EXHIBITS :

P1: COPY OF THE PERMIT OF THE VEHICLE KL-7 AR 2480.

P2: COPY OF THE RC BOOK OF THE VEHICLE KL-7 AR 2480.

P3: COPY OF THE INSURANCE CERTIFICATE OF THE VEICLE KL-7 AR 2480.

P4: COPY OF THE RECEIPT DT 13/10/2010.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

K.VINOD CHANDRAN, J

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W.P.(C).Nos. 33332 of 2010

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7121 of 2011

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Dated 10th February, 2015

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JUDGMENT

Two subsequent owners of a vehicle bearing registration No.KL-7 AR 2480 are before this Court. The petitioner in W.P.(C).33332 of 2010 was the registered owner of the said contract carriage and the same was sold subsequently to the petitioner in W.P.(C).7121 of 2011.

2. The controversy raised in both the writ petitions is insofar as the contributions payable under the Motor Transport Workers Welfare Fund Act, 1985. The petitioners' contentions are with respect to the contributions being based on the seating capacity.

3. The contract carriage which is the subject matter of the above writ petitions is said to have a seating capacity of 20 as per the manufacturer's specification, but the same is said to have been reduced by the first owner to 19. Even with respect to the question of payment of tax, on the basis of available seating capacity, this Court has in **Musthaffa v. Assistant Motor Vehicle Inspector (2014 (1) KLT 575)** found that, tax would have to be paid on the basis of the original seating capacity as specified by the manufacturer.

4. With respect to the welfare fund, the schedule only prescribes levy of contribution on the basis of the category of vehicle; in this case, a contract carriage, which will have to be paid at the rate of Rs.350/- for two employees, totalling Rs.700/-. The question of seating

capacity is not at all relevant to decide the cntribution under the K.M.T.W.W.F.Act.

In the above circumstances, the writ petitions would stand dismissed.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

//True Copy//