

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 24.4.2015.

CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.11125 of 2015

R.Balasubramani

Petitioner

vs.

- 1 The Transport Commissioner
Chepauk Chennai 600 005.
- 2 The Regional Transport Officer
Regional Transport Office
Tiruvallur District at Tiruvallur.
- 3 The Inspector of Police
B-5 Manavala Nagar Police Station
Tiruvallur District.
- 4 The Managing Director
Metropolitan Transport Corporation
Pallavan House
Chennai 600 002.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the 2nd respondent to return the petitioner's driving licence in D.L.No.TN 09 19980005405 to enable him to join duty before the 4th respondent.

For Petitioner : Mr.A.Rajesh Kanna

For RR1 to 3 : Mr.A.Kumar, Special Government Pleader

For R4 : Mr.P.Kannankumar

ORDER

This writ petition has been filed by R.Balasubramani praying for issuance of a writ mandamus directing the Regional Transport Officer, Tiruvallur District, the second respondent herein to return his driving licence bearing D.L.No.TN 09 19980005405 to enable him to join duty before the 4th respondent-Transport Corporation.

2. Learned counsel appearing for the petitioner would submit that while the petitioner was driving a bus bearing registration No.TN 01 N 8987 belonging to the fourth respondent Corporation, on 29.3.2015 in Route No.153A/B, Side No.KNI 2889 at about 12.15 from CMBT to Tiruvallur via Ondikuppam Bus Stand, he stopped the bus at about 13.50 to drop and pick up the passengers in the bus stand and after some time when he started moving the bus from the Bus Stand towards Tiruvallur, a two wheeler bearing registration No.TN CC 7006 Hero Honda Splendor attempted to overtake the bus, but, unfortunately he got hit with a Tractor which was parked on the left side of the road and consequently, he lost his balance and fell down on the road and although the petitioner applied break and stopped the bus, but, the victim sustained head injury and thereafter, he succumbed to the injury when he was taken to a nearby hospital. In view of the same, the third respondent Inspector of Police, B5 Manavala Nagar Police Station registered a case against him under section 279 IPC and 304 (A) IPC in Crime No.79 of 2015 dated 29.3.2015 Pursuant to the registration of the FIR, the petitioner's licence was seized by the third respondent and handed over to the second respondent and the fourth respondent refused to permit him to joint duty without his driving licence. Therefore, he has come to this court on the basis of the principles laid down by this court in P.SETHURAM v. THE LICENSING AUTHORITY, THE REGIONAL TRANSPORT OFFICER, DINDIGUL (2010 WRIT L.R. 100) wherein this court has clearly held that the Regional Transport Officer cannot impound any driving licence without there being any enquiry preceded by issuance of notice.

3. Mr.A.Kumar, learned Special Government Pleader takes notice for respondents 1 to 3 and Mr.P.Kannankumar, learned counsel takes notice for the fourth respondent.

4. The ratio relied on by the learned counsel appearing for the petitioner reads as under:-

"Licence of the appellant was impounded by the police immediately after the accident -- Impounding of the licence has actually preceded the issue of show cause notice. ...

Neither the show cause notice nor the order impugned in the writ petition, imputes the appellant with any of the ingredients necessary under Clauses (b) to (h) of Sub Section (1) of Section 19 of the Act."

5. The above decision clearly applies to the present case inasmuch as the driving licence of the petitioner having been impounded without there being any notice whatsoever. Therefore, this court hereby directs the second respondent to consider the representation dated 6.4.2015 on merits and in the light of the above ratio and dispose of the same within a period of two weeks from the

date of production of copy of this order.

6. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssk.
To

- 1 The Transport Commissioner
Chepauk Chennai 600 005.
 - 2 The Regional Transport Officer
Regional Transport Office
Tiruvallur District at Tiruvallur.
 - 3 The Inspector of Police
B-5 Manavala Nagar Police Station
Tiruvallur District.
 - 4 The Managing Director
Metropolitan Transport Corporation
Pallavan House
Chennai 600 002.
- 1 cc to Mr.A.Rajesh Kanna ,Advocate, SR.No.23293
1 cc to Mr.P.Kannankumar ,Advocate, SR.No.23063
1 cc to Government Pleader, Sr.No22967

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