

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.25312 of 2015
and M.P.Nos.1&2 of 2015

N.Ravi

[Petitioner]

Vs

- 1 The Joint Commissioner
North Zone/Transport Department
Ayanavaram, Chennai 23
- 2 The License Issuing Authority
Regional Transport Office
Ambattur Chennai 53
- 3 The Inspector of Police
T-12 Traffic Investigation Wing Poonamallee
Thiruvallur District
- 4 The General Manager
Metropolitan Transport Corporation
Pallavan House, Chennai 2

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified Mandamus to call for the records relevant to the proceedings order No.25529/A1/2015 dt 3.7.2015 passed by the 2nd respondent and quash the same as illegal improper against the natural justice and thereby direct the 2nd respondent to return the petitioners driving license in D.L.No.TN20Z19830000766 and enable him to join the duty before the 4th respondent

For petitioner :Mr.M.V.Muralidharan

For respondents:Mr.M.L.Mahendran, GA (R1-3)

Mr.P.Kannankumar (R4)

O R D E R

Heard the learned counsel for the petitioner, Mr.M.L.Mahendran, learned Government Advocate, who took notice for the respondents 1 to 3 and Mr.P.Kannankumar, learned counsel for the 4th respondent and with their consent, the main writ petition itself is taken up for hearing.

2. This writ petition has been filed challenging the proceedings passed by the 2nd respondent and to direct the 2nd respondent to return the petitioner's driving license in D.L.No.TN20Z19830000766, to enable him to join the duty before the 4th respondent

3. The petitioner is employed as a driver in the Metropolitan Transport Corporation (MTC), Ayanavaram Depot, Ayanavaram, Chennai, holding driving license in D.L.No.TN20Z19830000766, which is valid till 02.09.2018. According to the petitioner, on 10.06.2015, while he was driving a Government bus, during his trip from Mugappair West towards Mahavaram, after reaching Ambattur Estate Bus Stand, when he slowly started the bus in the CTH Road, on hearing alarm of the passengers from the bus, he immediately stopped the bus and got down from the same, where, he had seen that a motorcyclist, who drove his vehicle in a rash and negligent manner, when attempting to over tack his bus on the left hand side, lost his control and got hit on the rear side of the bus, as a result of which, the rear wheel of the bus ran over on his hip and suffering severe blood injuries, he died. Subsequently, a case was registered against the petitioner under sections 279 and 304 A IPC in Crime No.606/PH3/2015 by the 3rd respondent and his original driving license was seized, which was forwarded to the second respondent for taking necessary action. The petitioner was suspended from duty by the order of the 4th respondent dated 11.06.2015, however, subsequently, the same was revoked and the petitioner was permitted to join duty. But, the seized license was not given to the petitioner. Subsequently, the 2nd respondent, by notice dated 19.06.2015, directed the petitioner to appear on 03.07.2015 at 11.00 a.m. and accordingly, he appeared and submitted his explanation. However, without even considering the reply, on the very same day, the impugned order has been passed, suspending the license from 10.06.2015 to 09.12.2015 for a period of six months with a further direction not to drive any public vehicle in the public road. Hence, the petitioner has approached this Court by way of filing of this writ petition.

4. In identical circumstances, this Court in W.P.No.27103 of 2014 dated 13.10.2014 (Mani vs. Regional Transport Officer, Erode), has passed the following order:

"6. The issue involved in this Writ Petition is covered by the decision of this Court in a similar writ petition in W.P.(MD) No.16806 of 2013 dated 22.10.2013, wherein this Court has held as follow:

"7. In view of the said conclusion, I hold that the action of the respondent in retaining the license is illegal. At the same time, in the present case, license was seized by the police, it is for the licensing authority to return the license to the police investigating the criminal case forthwith. On getting the driving license of the petitioner, the investigating officer shall issue acknowledgment, as provided in sub-section 3 of Section 206 of the Motor Vehicles Act and then produce the license before the jurisdictional Magistrate. The jurisdictional Magistrate shall thereafter return the license to the petitioner, as provided in Section 206(1) of the Motor Vehicles Act. On such return of the license to the petitioner, the petitioner shall execute a bond to the satisfaction of the jurisdictional Magistrate undertaking to produce the license, as and when required by the Court.

7. Therefore, this Writ Petition is allowed. The 1st respondent is directed to return the driving license to the Investigation Officer/2nd respondent in Crime No.116 of 2014 on the file of the 2nd respondent, who shall, in turn issue an acknowledgment to the petitioner and then produce the same before the jurisdictional Magistrate and the learned Magistrate, in turn, shall exercise his power under section 206(1) of the MV Act and return the license to the petitioner."

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5. Hence, in the light of the above, the present Writ Petition is partly allowed. The 2nd respondent is directed to return the driving license, which was seized in respect of Crime No.606/PH3/2015 on the file of the 3rd respondent, to the Investigation Officer/3rd respondent, who shall, in turn issue an acknowledgment and then produce the same before the jurisdictional Magistrate and the learned Magistrate, in turn, shall exercise his power under section 206(1) of the Motor Vehicles Act and return the license to the petitioner and on such return of the license to the petitioner, the petitioner shall execute a bond to the satisfaction of the jurisdictional Magistrate undertaking to produce the license, as and when required by the Court. For revocation of suspension, it is open to the petitioner to approach the authority in the manner known to law. No costs. Connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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+1 cc to Mr.M.V.Muralidaran, Advocate sr.47901
+1 cc to Government pleader sr.48311

W.P.No.25312 of 2015

aa07/09/2015