

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.20152 of 2016

The Managing Director
Tamil Nadu State Transport Corporation
(Salem) Ltd., Salem - 7.

.. Petitioner

..Vs..

1.The Secretary
Tamil Nadu State Transport Appellate Tribunal
Madras High Court, Madras - 104.

2.The Regional Transport Authority
Dharmapuri. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent, pertaining to the return of appeal papers in RNo.000495/2016/A4 to 000536/2016/A4 and 000538/2016/A4, 000539/2016/A4 dated 25.04.2016 and quash the portion of the order stating that the appeals are beyond the statutory limitation period and to direct the 1st respondent State Transport Appellate Tribunal and accept the appeal and to place before the 1st respondent.

For Petitioner : Mr.P.Paramasiva Doss

For Respondents: Mr.R.Lakshmi Narayanan,
Addl.Govt.Pleader for R2

ORDER

Heard Mr.P.Paramasiva Doss, learned counsel appearing for the petitioner and Mr.R.Lakshmi Narayanan, learned Additional Government Pleader appearing for the second respondent and with the consent of the either side, the writ petition itself is taken up for final disposal.

2.This writ petition has been filed by the petitioner challenging a memo issued by the State Transport Appellate Tribunal, Chennai whereby the petitioner's appeal memorandums have been returned on the ground that the appeals are presented

beyond the period of 30 days stipulated under the statute. The appeals have been filed by the petitioner against the orders passed by the Regional Transport Authority, Dharmapuri wherein the stage carriages operated by the petitioner Transport Corporation were found to have violated the permit conditions. However, the Regional Transport Authority did not impose any capital punishment on the petitioner Corporation such as cancellation of permit, but permitted the petitioner to compound the offence by paying an amount of Rs.9,000/-.

3.The said order was put to challenge before the State Transport Appellate Tribunal, Chennai well beyond the period of limitation. Now the petitioner has come up with the present writ petition challenging the "return memo" issued by the State Transport Appellate Tribunal. Section 89 of the Motor Vehicles Act, 1988 deals with provisions relating to appeals. Sub-Section 1 of Section 89 deals with the nature of orders against which appeals can be filed before the State Transport Appellate Tribunal and it states that such appeal may be filed within the prescribed time and in the prescribed manner.

4.Rule 157 of the Tamil Nadu Motor Vehicle Rules stipulates the manner in which the appeal should be filed and the period of limitation. Sub-Rule 1 of Rule 157 states that an appeal under Sub-Section 1 of Section 89 shall lie to the State Transport Appellate Tribunal within 30 days from the date of receipt of the order appealed against. However, what is relevant for the present case is Sub-Rule 3 of Rule 157 which states that the provisions of the limitation act, 1963 will not be applicable to the appeals filed under Rule 157.

5.Thus, there is no power for the State Transport Appellate Tribunal to condone the delay and therefore, the State Transport Appellate Tribunal was fully justified in returning the appeal memorandum. At this stage, it would also be beneficial to refer to the decision of the Hon'ble Division Bench of this Court in Muthammal Transports v. P.Swathanthirarajan, 2007 (3) CTC 389.

6.In the light of the above legal position, the impugned "return memo" issued by the State Transport Appellate Tribunal calls for no interference. Accordingly, the writ petition fails and the same is dismissed. No costs.

pgp

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Secretary
Tamil Nadu State Transport Appellate Tribunal
Madras High Court
Madras - 104.

2.The Regional Transport Authority
Dharmapuri.

+ 1 cc to The Govt.Pleader, Sr 33142

KR/13/7/16

W.P.No.20152 of 2016



WEB COPY