

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.6.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION No.22486 OF 2016

E.Ethiraj

[PETITIONER]

Vs

1.The Secretary
State Transport Appellate Tribunal
Chennai-104

2.The Secretary Regional
Transport Authority Chennai North
Chennai-39 [RESPONDENTS]

PETITION under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the first respondent to condone the delay of 13 days in filing the appeal and consequently direct the first respondent to allow the appeal.

For Petitioner :Mr.S.SenthilVel

For Respondents :Mr.S.Diwakar, SGP

ORDER

Mr.S.Diwakar, learned Special Additional Government Pleader takes notice for the respondents. Heard both.

2.The Second respondent rejected the application of the petitioner for the grant of auto richshaw permit. The petitioner presented an appeal as against the order of the second respondent. The petitioner's appeal memorandum has been returned on the ground that the appeal was presented beyond the period of 30 days stipulated under the statute.

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 above writ petition seeking a direction to the first respondent to condone the delay and to allow the appeal.

4.Section 89 of the Motor Vehicles Act, 1988 deals with provisions relating to appeals. Sub-section (1) of section 89 of the said Act deals with the nature of

order, against which, an appeal can be filed before the state Transport Appellate Tribunal and it states that such an appeal may be filed within the prescribed time and in the prescribed manner.

5.Rule 157 of the Tamil Nadu Motor Vehicle Rules stipulated the manner, in which, the appeal should be filed and the period of limitation. Sub-Rule (1) of Rule 157 of the said Rules states that an appeal under Subsection (1) of section 89 of the said Act 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 herein is that Sub-Rule(3) of Rule 157 of the said Rules states that the provisions of the Limitation Act, 1963, will not be applicable to the appeal filed under Rule 157 of the said Rules.

6.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 (reported in 2007 (3) CTC 389).

7.In the light of the above legal position, the impugned return memo issued by the state Transport Appellate Tribunal does not call for any interference.

8.Accordingly, the writ petition is dismissed. No costs.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The Secretary,TN State Transport Appellate Tribunal,
Chennai-104.

2.The Secretary, Regional Transport Authority,
Chennai North, Chennai-39.

+1 cc to Mr.S.SenthilVel, Advocate,sr.36759.

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