

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.40428 of 2016

S.Gopi

... Petitioner

vs.

- 1.The Transport Commissioner,
Chepauk, Chennai - 600 005.
- 2.The Assistant License Issuing Authority,
Thiruvallur Regional Transport Office,
Thiruvallur District.
- 3.The Regional Transport Officer,
Regional Transport Office,
K.K.Nagar, Chennai.
- 4.The Inspector of Police,
Traffic Investigation Wing,
J3 Guindy Police Station,
Chennai.
- 5.The Branch Manager,
Metropolitan Transport Corporation,
Poonamallee Depot, Chennai.

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of Mandamus, directing the respondents 1 to 4 to return the petitioner's driving license in DL.No.TN20Z 19960004280 to enable him to join and continue his service in the 5th respondent Transport Corporation.

For Petitioner : Mr.A.Rajesh Kanna
For Respondents : Mr.K.J.Shivakumar
Government Advocate (For R1 to R4)
Mr.P.Kannan Kumar (For R5)

O R D E R

Mr.K.J.Shivakumar, learned Government Advocate takes notice for the respondents 1 to 4 and Mr.P.Kannan Kumar, learned counsel takes notice for the 5th respondent. Heard both. By consent, the writ petition itself is taken up for disposal.

2. In this writ petition, the petitioner seeks to direct the respondents 1 to 4 to return his driving licence.

3. It is the case of the petitioner that he is a Driver in the Metropolitan Transport Corporation, Poonamallee Depot and in the accident that had occurred on 24.10.2016, a pedestrian suddenly crossed the road and fallen in front of the bus and sustained fatal injury and died. Subsequently, the 4th respondent police had registered a case in Crime No.782 of 2016 under Sections 279 and 304(A) of the Indian Penal Code. The 4th respondent handed over the driving licence of the petitioner to the 3rd respondent. Hence the above writ petition.

4. The learned counsel appearing for the petitioner submitted that the issue involved in the present Writ Petition is covered by the decision of this Court reported in 2015 (2) CTC 626 [R.Ravi Vs. The Regional Transport Officer, Transport Department, Chennai - 600 078 [Chennai (West)]] wherein it has been held as follows:

"Following the ratio laid down by the Division Bench of this Court reported in P.Sethuram V. The Licensing Authority, The Regional Transport Officer, Dindigul, 2009 (2) TN MAC 252 (DB) : 2010 WLR 100, the impugned Order passed by the Respondent is liable to be set aside and accordingly, the same is set aside. The Respondent is directed to return the Driving Licence of the petitioner within a week from the date of receipt of a copy of this Order. However, it shall not preclude the Respondent from initiating any action, if any of the contingencies specified in Motor Vehicles Act, arises later or if any of the Rules as prescribed by the Central Government, in pursuance of the provisions of the Act, are violated."

5. Mr. K. J. Shivakumar, learned Government Advocate appearing for the respondents 1 to 4 also submitted that the issue is covered by the judgment of this Court reported in 2015 (2) CTC 626 (cited supra).

6. Having regard to the submissions made by the learned counsel on either side, following the ratio laid down in the said judgment, the 3rd respondent is directed to return the Driving License of the petitioner within a week's time from the date of receipt of a copy of this order. However, it shall not preclude the respondents from initiating any action, if any of the contingencies specified in Motor Vehicles Act, arises later or if any of the Rules as prescribed by the Central Government, in pursuance of the provisions of the Act, are violated.

7.With this observation, the Writ Petition is allowed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

cse

To

- 1.The Transport Commissioner,
Chepauk, Chennai - 600 005.
- 2.The Assistant License Issuing Authority,
Thiruvallur Regional Transport Office,
Thiruvallur District.
- 3.The Regional Transport Officer,
Regional Transport Office,
K.K.Nagar, Chennai.
- 4.The Inspector of Police,
Traffic Investigation Wing,
J3 Guindy Police Station,
Chennai.
- 5.The Branch Manager,
Metropolitan Transport Corporation,
Poonamallee Depot, Chennai.

+1 cc to M/s.A.Rajeshkanna Advocate sr 69949
+1 cc to Government Pleader sr 70986

WEB COPY

W.P.No.40428 of 2016

lrs(co)
aa19/12/2016