

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.978 of 2016

V.Anniyappan

.. Petitioner

Vs

1. The Transport Commissioner,
Chepauk, Chennai-600 005.
2. The Regional Transport Officer,
Regional Transport Office,
Tiruvallur District, Tiruvallur.
3. The Inspector of Police
B-5 Manavala Nagar Police Station
Tiruvallur District.
4. The Branch Manager
Metropolitan Transport Corporation
Poonamallee Depot,
Chennai-600 056.

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents 1 to 3 to return the petitioner's driving license in D.L.No. TN 2319980010710 and enable the petitioner to join duty before the fourth respondent.

For Petitioner : Mr.A.Rajesh Kanna
For R1 to R3 : Mr.R.M.Muthukumar, GA
For R4 : Mr.P.Kannankumar

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O R D E R

Heard Mr.A.Rajesh Kanna, learned counsel for the petitioner and Mr.R.M.Muthukumar, learned Government Advocate, who took notice for the respondents 1 to 3 and Mr.P.Kannan Kumar, learned counsel, who took notice for the fourth respondent and with their consent, the writ petition is taken up for final disposal.

2.The petitioner has filed this writ petition, seeking a direction to the respondents 1 to 3 to return his original Driving Licence so as to enable him to join and continue his service in the fourth respondent Transport Corporation.

3.The case of the petitioner is that he is working as driver in the fourth respondent corporation. On 14.12.2015 at about 7.35 a.m, while he was driving a bus bearing Regn.No.TN 01 N 7650 in route No.583(A) and when the bus was at Athikathur Road - Pattarai junction, a cyclist, who came from right side, dashed on the left side of the bus, fell down and sustained grievous injuries, due to which, he died in the hospital. According to the petitioner, there was no rash and negligence on his part and the cyclist was solely responsible for the accident as he came without following the traffic rules. Thereafter, a criminal case was registered in Crime No.370 of 2015 by the third respondent Inspector of Police, for the alleged offences under Sections 279 and 304-A IPC. Pursuant to the same, the license of the petitioner was impounded by the third respondent and the same was handed over to the second respondent without following the procedure as contemplated under Section 19(1)(c) of the Motor Vehicles Act. The petitioner made a representation dated 16.12.2015 to the respondents for return of his licence, but no action is taken till date. Hence, the petitioner is before this court with this writ petition.

4.The learned counsel for the petitioner submitted that 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."

5.Learned counsel for the petitioner further submits that in a similar case in P.Sethuram Vs. The Licensing Authority, The Regional Transport Officer, The Regional Transport Office, Dindigul (2010 Writ L.R. 100), a Division Bench of Madurai Bench of this Court directed the respondent therein to return the driving licence to the appellant therein. It is also submitted that in yet another case in S.Duraivelu Vs. The Regional Transport Officer, West Tambaram, Chennai and Others (2013 Writ L.R. 843), this Court has followed the decision of the Division Bench and directed the respondents 1 and 2 therein to release the license of the petitioner therein, after removing the endorsement "suspended".

6.Learned counsel appearing for the respondents fairly submitted that the issue involved in the present writ petition is covered by the above said orders of this Court.

7.This Court has considered the submissions made by the learned counsel on either side. In P.Sethuram's case (cited supra), the Division Bench has categorically held that the pendency of a criminal case would not give jurisdiction to the authority to cancel the licence and the authority has to wait for the outcome of the criminal case.

8.In view of the above, the writ petition is disposed of with a direction to the second respondent to return the driving licence of the petitioner to the Investigation Officer/third 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. No costs.

sd/-
Assistant Registrar(CO)

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Sub-Assistant Registrar

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To

1. The Transport Commissioner,
Chepauk, Chennai-600 005.
2. The Regional Transport Officer,
Regional Transport Office,
Tiruvallur District, Tiruvallur.
3. The Inspector of Police
B-5 Manavala Nagar Police Station,
Tiruvallur District
4. The Branch Manager
Metropolitan Transport Corporation
Poonamallee Depot, Chennai-600 056.

+1 CC to MR.A.Rajesh Kanna Advocate. SR.NO.1715
+1 CC to Govt.Pleader. SR.NO.2258

W.P.No.978 of 2016

CO-AD
JD 25/01/2016

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