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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P. (MD) No.24136 of 2016
and W.M.P.Nos.17416 to 17418 of 2016

P.VINAITHEERTHAN

... Petitioner

Vs.

1 THE LICENSING AUTHORITY/ THE
REGIONAL TRANSPORT OFFICER
REGIONAL TRANSPORT OFFICE
MADURAI (CENTRAL)
MADURAI DISTRICT.

2 THE GENERAL MANAGER
TNSTC (MADURAI) LTD
BYE PASS ROAD
MADURAI DISTRICT-10.

3 THE BRANCH MANAGER
TNSTC (MAD) LTD.
PUDUR BRANCH
MADURAI DISTRICT.

4 THE BRANCH MANAGER
TNSTC (MADURAI) LTD.
PONMENI BRANCH
MADURAI DISTRICT.

5 THE ASSISTANT MANAGER (LEGAL)
TNSTC (MAD) LTD.
DEPARTMENT OF DISCIPLINARY ACTION
MADURAI DISTRICT.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified mandamus calling for the records relating to the impugned orders in Madurai/O.Na.Thu/D2/2257/2016 dated 02.12.2016 and Madurai/O.Na.Thu/D2/2315/2016 dated 08.12.2016 on the file of the respondent no.5 and quash the same as illegal and consequently direct the respondent no.2 to 4 to provide duty to the petitioner as driver in the Respondent No.4 depot forthwith without insisting to surrender his original driving license to the Respondent NO.1.

For Petitioner : Mr.M.M.igbal

For Respondents : Mr.M.Rajarajan for R1

Government Advocate

Mr.A.P.Muthupandian for R2 to R5

**ORDER**

The prayer in the writ petition is for a writ of Certiorarified mandamus calling for the records relating to the impugned orders in Madurai/O.Na.Thu/D2/2257/2016 dated 02.12.2016 and Madurai/O.Na.Thu/D2/2315/2016 dated 08.12.2016 on the file of the respondent No.5 and quash the same as illegal and consequently direct the respondent Nos.2 to 4 to provide duty to the petitioner as driver in the Respondent No.4 depot forthwith without insisting to surrender his original driving license to the Respondent NO.1.

2. The petitioner, when he was working as a Driver with the 4th respondent Depot, involved in a fatal accident. Pursuant to which, a case was registered against him under Sections 279 and 304(A) IPC in Crime No.248/2016 on the file of the Karimedu Police Station. The Investigating Officer had seized the bus, which involved in the accident and later on produced the same before the Motor Vehicle Inspector, for report. The Motor Vehicle Inspector had also seized the RC and permit book of the bus bearing registration No.TN 58 N 2028. During that time, the petitioner had produced only a photo copy of the driving licence, which was duly certified by the Notary Public, to the first respondent.

3. Thereafter, the petitioner was suspended from service on 25.09.2016 and later on, on 24.10.2016, the suspension was revoked by the 2nd respondent. Thereafter, the petitioner was directed to undergo training for a period 30 days in the Institute of Road Transport, since whenever a driver is involved in a fatal accident, he has to necessarily undergo such training. Accordingly, the petitioner has undergone the training from 25.10.2016 at Pasumalai Training Centre, Madurai, for 18 days and again training at Gummidipoondi Training Centre, Chennai, for 12 days and therefore, he has completed 30 days training on 23.11.2016.

4. After having completed the training, the petitioner approached the 4th respondent for giving him duty. In response to the same, the 5th respondent passed the impugned order on 02.12.2016 and 08.12.2016 by which, the petitioner was asked to surrender his original licence to the concerned Regional Transport Office and in lieu of that, the RC book and permit of the bus can be returned back by the Regional Transport Officer and thereafter, after getting proper advice from the Regional Transport Office concerned and after having completed the 30 days training, he would be considered for duty. Aggrieved by the said orders passed by the 5th respondent, the petitioner has come up with this writ petition.



5. Heard the learned counsel appearing for the parties.

6. The learned counsel for the petitioner would submit that the issue raised in this writ petition is covered by a decision of this Court made in W.P.No.14252/2012 dated 15.11.2012 in the matter of P.Kalidass v. John Lessly and others. In the said case also, when similar situation arose, this Court has shown its indulgence by directing the petitioner therein to produce the xerox copy of the driving licence to the Regional Transport Office concerned and thereafter after completing the incomplete period of 30 days training, he was directed to be considered by the respondents therein for duty. By relying the said judgment, the learned counsel for the petitioner would further submit that since the petitioner has already undergone 30 days training and he has also produced the photo copy of his driving licence duly notarised to the 1st respondent, there can be no further impediment for the 4th respondent to take the petitioner back for duty.

7. Per contra, the learned counsel for the first respondent as well as the learned counsel for the respondents 2 to 5 submitted that as per the procedure in vogue, whoever involved in a fatal accident must surrender his original licence to the concerned Regional Transport Officer and after having completed the due enquiry, then only the licence would be returned to the Driver concerned and thereafter, after undergoing the 30 days training mandatorily, the driver would be considered for taking back for duty. Since the petitioner has not completed those formalities and procedure, which are in fact mandatorily required under the provisions of the Motor Vehicles Act, the impugned order directing the petitioner to undergo only such procedure cannot be termed as unsustainable one and therefore, the writ petition has to be dismissed, they contended.

8. This Court have considered the rival submissions made by the learned counsel for the respective parties.

9. As has been pointed out by the learned counsel for the petitioner, a similar issue has already been dealt with by this Court in the judgment referred to above, wherein, the petitioner was directed to produce a photo copy of the licence and to undergo training period of 30 days training and thereafter, he was directed to consider for duty. This procedure directed to be adopted by the respondents is opposed by the learned counsel for the respondents. Instead, the learned counsel for the respondents would submit that the petitioner has to produce the original licence and after due enquiry, it may be returned back to him and thereafter, on completing the training, he would be considered for duty. For the said course of action, the learned



counsel for the petitioner would raise his objection that once his original licence is produced, the same would be impounded by the Regional Transport Office concerned and for that case, he may lose the job of Driver.

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10. This Court, after having considered the rival submissions, is of the considered view that no doubt the petitioner had involved in a fatal accident, for which, the necessary procedure must have been adopted by the respondents. Here in this case, the petitioner has produced only a photo copy of the licence. However, he has undergone 30 days training and the suspension order also, made against the petitioner, was revoked. Therefore, under the said circumstances, to meet the ends of justice, this Writ petition is disposed of with the following directions:

(1) The petitioner shall produce his original driving licence to the 1st respondent within a period of one week from the date of receipt of this order ;

(2) On production of such original licence, the necessary formalities of giving advice by the Regional Transport Office concerned to the petitioner for safety measures to be observed by the petitioner, while driving hereafter to be followed and after completing the formalities, the original licence of the petitioner shall be returned forthwith ;

(3) On completion of these formalities at the first respondent office, the respondents 2 to 4 shall take the petitioner for duty, since he has already completed 30 days training, within a period of one week thereafter. It is made clear that while returning the original driving licence to the petitioner, the RC book as well as the permit pertaining to the bus concerned shall also be returned to the respondents 2 to 4. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

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DEPARTMENT OF DISCIPLINARY ACTION
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+1cc to Mr.M.M.Igbal, Advocate in SR No.81734
+1cc to the Spl.Govt.Pleader in SR No.81889

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