

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.3004 of 2017

S.Anandan

... Petitioner

Vs.

1. The Transport Commissioner,
Chepauk,
Chennai - 600 005.
2. The Assistant License Issuing Authority
Ayanavaram Regional Transport Office,
Ayanavaram, Chennai.
3. The Regional Transport Officer
Regional Transport Office,
Pulianthope, Chennai.
4. The Inspector of Police
Traffic Investigation Wing
C2 Elephant Gate Police Station
Chennai - 600 079.
5. The Branch Manager,
Metropolitan Transport Corporation
Perambur Depot,
Chennai.

(R5 - deleted as per the order of the
Court dated 07.02.2017, made in
W.P.No.3004/2017)

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 4 return the petitioner's driving license in D.L.No.TN 01 19920006063 enable him to join and continue his service in the 5th respondent transport Corporation.

For Petitioner : Mr.A.Rajesh Kanna

For Respondents : Mr.Akhil Akbar Ali for R1 to R4
Government Advocate

O R D E R

1.At the outset, learned counsel for the petitioner says that respondent no.5 is only a proforma party and therefore, the said respondent be dropped from the array of parties.

1.1.It is ordered accordingly. Respondent no.5 is deleted from the array of parties.

2.Issue Notice. Mr.Akhil Akbar Ali, learned Government Advocate, accepts notice on behalf of the remaining respondents i.e., respondents No.1 to 4. With the consent of the learned counsels for parties, the writ petition is taken up for final hearing and disposal.

3.The facts which are required to be noticed for adjudicating upon the writ petition are as follows:

3.1.The petitioner claims that he was appointed as a Driver in the Metropolitan Transport Corporation at Perambur Depot.

3.2.Furthermore, the petitioner claims that he was given a badge bearing no.D51498.

3.3.The petitioner also avers that while he was driving the bus bearing Registration No.TN 01 N 5710, on Route No.42 A, on 08.12.2016, his vehicle over ran a person, who died in the accident.

3.4.Concededly, a case was registered against the petitioner on the very same day i.e., 08.12.2016. The petitioner was arrayed as an accused in F.I.R.No.187/2016. The said F.I.R. is registered against the petitioner under Sections 304 A of the Indian Penal Code, 1860 (in short, IPC) and under Section 184 of the Motor Vehicle Act, 1988 (in short, the 1988 Act).

4.It appears that on account of the aforementioned accident, the third respondent has seized the petitioner's licence. The petitioner claims to have made a representation dated 19.01.2017 to the Commissioner of Police Department. Via, this representation, the petitioner seeks release of his driving licence bearing no. D.L.No.TN 01 19920006063.

5.Learned counsel for the petitioner says that, since, the investigation is in progress, the respondents, in particular, respondent no.3 cannot continue to hold over the petitioner's licence.

6.In support of his contention, learned counsel for the petitioner seeks to place reliance on the order dated

07.12.2016, passed in W.P.No.40973 of 2016. In the said order, which was passed by me, the following observations were made:

"4.The petitioner says that he has made a representation dated 03.11.2016 to respondent no.3 for release of his driving licence. It is the petitioner's case that the driving licence is required to be handed over to him as it can only be revoked after following the procedure contemplated in Section 19 of the Motor Vehicles Act, 1988.

5.The petitioner says that no show cause notice has been issued to him, and therefore, the continued retention of the driving licence is illegal. In support of this submission, the counsel for petitioner relies upon an order passed by a Single Judge of this Court dated 21.10.2016 in W.P.No.34405 of 2016. A perusal of the said order would show that it is based on another order of this Court, passed in R.Ravi Vs. Regional Transport Officer, Transport Department, Chennai (2015 (2) CTC 626).

6.In these circumstances, the writ petition is disposed of with a direction to the respondent no.3 to pass an appropriate order on the representation of the petitioner within a period of ten days of the receipt of a copy of the order. While passing the order, the respondent no.3 will bear in mind, the judgment of this Court dated 21.10.2016, passed in W.P.No.34405 of 2016. Needless to say, the respondent no.3 prior to passing any order on the representation of the petitioner will accord a personal hearing to the petitioner."

7.Accordingly, in line with the directions issued vide order dated 07.12.2016, passed in W.P.No.40973 of 2016, this writ petition is disposed of, with a direction to the third respondent to pass an appropriate order on the representation dated 19.01.2017, preferred by the petitioner. While passing the order, third respondent will bear in mind the judgment of this Court dated 21.10.2016, passed in W.P.No.34405 of 2016. Needless to say, respondent no.3 prior to passing an order on the representation of the petitioner will accord a personal hearing to the petitioner.

8.The writ petition is disposed of, in terms of the
aforementioned directions. However, there shall be no order as
to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Transport Commissioner,
Chepauk,
Chennai - 600 005.
2. The Assistant License Issuing Authority
Ayanavaram Regional Transport Office,
Ayanavaram, Chennai.
3. The Regional Transport Officer
Regional Transport Office,
Pulianthope, Chennai.
4. The Inspector of Police
Traffic Investigation Wing
C2 Elephant Gate Police Station
Chennai - 600 079.

+1cc to Mr.A.Rajesh Kanna, Advocate, S.R.No.7930
+1cc to the Government Pleader, S.R.No.8060

सत्यमेव जयते

W.P.No.3004 of 2017

NM(CO)
CA(10/02/2017)

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