

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.778 of 2017

S.Baskaran

... Petitioner

vs.

Secretary
Regional Transport Authority
Vellore-9.

... Respondent

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorarified Mandamus, to call for records of the respondent relating to the order made in R.No.A2/51077/2016, dated 23.12.2016 and to quash the same and consequently, direct the respondent herein to renew the petitioner's autorickshaw permit in respect of vehicle No.TN-23/AF-5891 as applied for.

For Petitioner : Mr.K.Hariharan
For Respondent : Mr.C.Jagadish
Spl.G.P.

ORDER

1.Issue notice. Mr.C.Jagadish, accepts notice on behalf of the respondent.

1.1 With the consent of counsels for the parties, the writ petition is taken up for hearing and final disposal.

2.This writ petition is directed against the order dated 23.12.2016.

2.1 By virtue of the impugned order, the petitioner's application for renewal of contract carriage permit, for a period of five years, spanning between 17.07.2016 and 16.07.2021, has been rejected.

3. To be noted, the petitioner has filed the application vis-a-vis autorickshaw bearing Registration No.TN 23 AF-5891.

4. Concededly, the petitioner was in possession of a contract carriage permit, which was valid between 17.07.2011 and 16.07.2016. The petitioner, under the provisions of Section 81(2) of Motor Vehicles Act, 1988 (in short, 'the 1988 Act'), was required to seek renewal of the permit by making an appropriate application, not less than 15 days before the date of its expiry.

5. The petitioner's application, however, was received by the respondent only on 16.08.2016, after a delay of 45 days.

5.1 The petitioner, however, had filed two certificates, before the respondent, issued by a registered MBBS Doctor, dated 25.07.2016 and 26.07.2016.

5.2 The first certificate issued by the doctor was indicative of the fact that, the petitioner was suffering from typhoid and, therefore, was under treatment with the doctor between 10.07.2016 and 25.07.2016.

5.3 Likewise, the second certificate indicated that, on account of general weakness, due to typhoid, the petitioner continued to be under treatment between 26.07.2016 and 15.08.2016.

6. It is pertinent to note that these documents were available with the respondent. The respondent, however, summarily, dismissed the petitioner's application.

6.1 The only rationale, which has been provided in the impugned order, it can be called one is that the reason stated by the applicant is not an acceptable one. Furthermore, the respondent goes on to say in the impugned order that it is due to the negligence of the applicant, that the purpose for which the permit had been issued had got defeated.

7. In my view, the respondent was required to examine the reasons for the delay. The documents filed before me, to which, I have made a reference above, clearly indicate that the petitioner was unable to file the application for renewal of permit, within time, as specified under Section 81(2) of 1988 Act, due to illness.

7.1 The respondent, admittedly, has power under Section 81 (3) of 1988 Act to condone the delay, if the applicant were to provide good and sufficient cause for the delay in filing the application within time as specified under Section 81(2) of 1988 Act.

7.2 The respondent, therefore, to my mind, in this case, exercised the jurisdiction vested in him with material irregularity, in not addressing himself to the documents placed on record by the petitioner to explain the delay in not moving

the application for renewal of permit, within time, as specified under Section 81(2) of 1988 Act.

7.3 The failure, on the part of the respondent, to take into account, the material documents, renders the impugned order unsustainable.

8. Furthermore, I find that the period of delay is not large. Therefore, having regard to the aforesaid circumstances, the impugned order is set aside.

8.1 The delay, in moving the application, for renewal is condoned. The matter is, accordingly, remitted to the respondent to pass a fresh order and, to grant renewal, if, the application filed in that behalf is otherwise in accordance with the extant provisions of law.

9. The writ petition is, accordingly, disposed of. There shall, however, be no order as to costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

kj

To

Secretary
Regional Transport Authority
Vellore-9.

+1cc to Mr.K.Hariharan, Advocate sr.2790

+1cc to Government Pleader sr.3402

ks(co)
ss(24/01/2017)

W.P.No.778 of 2017

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