

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 20.11.2017

DELIVERED ON:13.12.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

WP.No.45037 of 2006

& M.P. No.2 of 2006

K.Kumar Petitioner

Versus

1.The Regional Transport Authority,
Salem District,
Salem.

2.The State Transport Appellate Tribunal,
High Court Campus,
Chennai-600 104. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a certiorari to call for the records of the second respondent made in Appeal No.296 of 2005/A4 dated 11.07.2006 in confirming the order of the first respondent made in R.No.56503/A3/2005 dated 18.04.2005 in suspending the spare bus permit of the petitioner bearing Reg.No.TN 30 E 1213 and quash the same.

For Petitioner : Mr.M.Palani

For Respondents : Mr.S.Gunasekaran, AGP

ORDER

The petitioner is before this Court challenging the order passed by the first respondent dated 18.04.2005, as confirmed in appeal by the second respondent on 11.07.2006.

2. The petitioner is a Stage Carriage Operator operating a stage carriage bearing Reg.No.TN 30/B 9955 on the route Salem to Poolampatti via Ariyanur, Mac Donald Choultry, Kalipatty Cross Road and Siluvampalayam.

3. The petitioner was granted a special permit by the first respondent by proceedings dated 12.06.2004 for a period of

8 days, to operate in between 15.05.2004 and 22.05.2004 on various places mentioned in the temporary permit. When the vehicle was on its trip on 19.05.2004, it was checked and a check report was issued by the Motor Vehicles Inspector, alleging that the temporary permit issued to the petitioner was mis-used. Thereafter, a charge memo was issued on 17.06.2004, calling for explanation from the petitioner for the alleged mis-use of the temporary permit. The petitioner submitted his explanation on 28.06.2004, denying the allegations. However, not satisfied with the explanation, the first respondent suspended the spare bus permit for a period of 10 days, with an option to compound the offence @ Rs.300/- per day in lieu of suspension vide order dated 18.04.2005. As against the order passed by the first respondent, an appeal in A.No.296 of 2005 was preferred before the second respondent Tribunal.

4. Before the Tribunal, submissions were made on behalf of both the petitioner as well as the department. According to the petitioner, that the vehicle was found in Vathalakunttu, on 19.05.2004, for the reason that some of the passengers were affected by food poisoning and therefore, they had to be taken into nearby town for treatment. Moreover, it was also contented that Vathalakunttu, was a part of the place permitted in the temporary permit and as per the permit, the vehicle was supposed to reach Vathalakunttu on 20.05.2004 and therefore, there was no violation as such. According to the petitioner, though the place had been reached ahead of schedule and that cannot be the basis for the charge memo and the subsequent penalty imposed by the first respondent. On behalf of the department, the claim of the petitioner was resisted on the ground that the explanation offered by the petitioner for taking the vehicle to Vattalakunttu, was admittedly not convincing and the same was unacceptable, since no materials were produced in support of his explanation. Moreover, it was the case of the department that the check report was prepared by the Motor Vehicle Inspector and the same was signed by the driver of the bus and at that point of time, no such explanation was offered. Therefore, the so-called explanation offered by the petitioner was only an after thought. On considering all the pleadings and the submissions, the second respondent Tribunal dismissed the appeal on 11.07.2006, by upholding the order passed by the first respondent dated 18.04.2005. The petitioner is before this Court challenging the said orders.

5.The learned counsel appearing for the parties have reiterated the submissions.

6. The learned counsel for the petitioner would submit that neither the authority nor the appellate tribunal had considered the explanation offered by the petitioner in proper

perspective. He would further contend that merely because the bus had reached Vattalakunttu, and day halted as per schedule visit that cannot be a basis for either charge memo or penalty.

7. The submissions made on behalf of the petitioner was considered by both the first and second respondent Tribunal and the same was found to be unfounded and invalid. The second respondent Tribunal had passed a detailed order upholding the order passed by the first respondent. The reasons as set forth by the petitioner for reaching Vattalakunttu, and halted as per schedule date, hardly carry conviction as rightly found by the respondents that the said reasons were only an after thought. The orders passed by both the first and the second respondents have taken into consideration all the facts and circumstances of the case and dismissed the claim of the petitioner.

8. Finally, the learned counsel for the petitioner made a desperate plea that in similar circumstances, a learned judge of this Court, while confirming the punishment, had held that the punishment shall be construed from the date of occurrence of the offence. The learned judge, in his order dated 10.01.1980 in CRP No.55 of 1980 held as aforesaid on the ground that in the said case, a charge memo was issued after two years from the date of offence. In the present case, the charge memo was issued immediately and therefore, the said decision does not advance the case of the petitioner.

9. This Court therefore, does not find any infirmity in the orders passed by both the first and second respondents. On the whole, the writ petition lacks merit and substance and therefore, the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-viii)

//True Copy//

Sub Assistant Registrar

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To

1. The Regional Transport Authority,
Salem District,
Salem.

WEB COPY

2.The State Transport Appellate Tribunal,
High Court Campus,
Chennai-600 104.

+1cc to Mr. Advocate, S.R.No. 88756
+1cc to the Government Pleader, S.R.No. 89425

W.P.No.45037 of 2006

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TR(17/01/2018)



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