

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.45047 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.380 of 2005/A6 dated 11.07.2006 in confirming the order of the first respondent made in R.No.66664/A3/2004 dated 31.05.2005 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 31.05.2005, 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, Siluvampalayam.

3. The petitioner was granted a special permit by the first respondent by proceedings dated 10.06.2004 to operate in between 12.06.2004 and 13.06.2004 on various places mentioned in the

temporary permit. When the vehicle was on its trip on 12.06.2004, 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 23.07.2004, calling for explanation from the petitioner for the alleged mis-use of the temporary permit. The petitioner submitted his explanation on 05.08.2004, denying the allegations. However, not satisfied with the explanation, the first respondent suspended the spare bus permit for a period of 5 days, with an option to compound the offence @ Rs.300/- per day in lieu of suspension vide order dated 31.05.2005. As against the order passed by the first respondent, an appeal in A.No.380 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, the bus was inspected at Guindy, Chennai on 12.06.2004 and it was proceeded towards Mahabalipuram in order to reach Kalpakkam. Kalpakkam was one of the destination, which is found in the temporary permit issued to the petitioner. Therefore, the petitioner submits that there is no mis-use of temporary permit granted to him and therefore, the entire action by the first respondent was incorrect and invalid. On the other hand, it was contended on behalf of the department that though Guindy was not a part of the route mentioned in the temporary permit and therefore, there was gross violation on the part of the petitioner having plied the vehicle through Guindy. 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 31.05.2005. The petitioner is before this Court challenging the said orders.

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

6. The learned counsel for the petitioner made a feeble attempt to impress upon this Court that plying vehicle through Guindy was not in violation of the conditions of the temporary permit granted to the petitioner since Kalpakkam has to be reached through Mahabalipuram Via Guindy. Such explanation cannot be countenanced both in law and on facts for the simple reason that the routes mentioned in the temporary permit granted to the petitioner, the place of Guindy did not figure at all and therefore, the petitioner had plied the vehicle through a route not authorised in the temporary permit. In the said circumstances, the admitted explanation by the petitioner was found to be completely unfounded and did not carry conviction. In the above circumstances, both the first respondent and the

second respondent appellate Tribunal had rightly held that there was no merit in the claim of the petitioner. Therefore, the second respondent Tribunal has rightly rejected the appeal by its order dated 11.07.2006.

7. 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.

8. This Court has gone through the orders passed by the second respondent Tribunal as well as the first respondent and after perusing the relevant records and the pleadings placed on record, this Court does not find any merit in the contention of the learned counsel for the petitioner. Both the first and second respondents have rightly rejected the explanation offered by the petitioner. This Court does not find any infirmity in the orders passed either by the first respondent or by the second respondent Tribunal. Hence, the writ petition has to necessarily fail and the same is therefore, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

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To

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

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

+1 CC to Govt. Pleader sr 89426.

+1 CC to Mr.M. Palani, Advocate sr 88757.

W.P.No.45047 of 2006

KJI (CO)

SP(17/01/2018)