THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.NO.2929 OF 2017

O R D E R

The claim of the petitioner is that he is the owner of a three wheeler auto bearing registration No. AP 12 V 7672, which has valid permit under Rule 174 (3) of the Telangana Motor Vehicles Rules, to ply as auto-rickshaw. The said vehicle has fitness certificate, which is valid up to 8.6.2016. Thereafter with a delay, the petitioner applied for renewal to the office of the 3rd respondent - Regional Transport Authority through on-line, on 25.1.2017. He was allotted application number in TS 012/1342/2017/OF and was directed to pay Rs.11,550/- towards the late fee for fitness renewal. Aggrieved by the same, the present writ petition has been filed.

The learned counsel for the petitioner submits that as per Rule 81 of the Central Motor Vehicle Rules, 1989, which provide for payment of fees for renewal under different heads, there is no provision for payment of penalty for delay in seeking renewal of fitness certificate. The Central Government in exercise of power conferred under Section 110 of the Motor Vehicles Act, 1988, issued notification dated 29.12.2016 in G.S.R. 1183(E), amending the Rules of 1989, which are called 'Central Motor Vehicles (Twenty-Second Amendment) Rules, 2016'. The same were published in the official gazette on 29.12.2016. As per Sub Rule 2 of Rule 1 of Amendment Rules of

2016, they shall come into force from the date of their publication i.e., on 29.12.2016. As per Rule 2(iv) of Amendment Rules of 2016, 'fees' as required to be paid under Rule 81 of 1989 Rules, has been amended. As per Srl.No.11 of the table given under amending Rule 81, for grant of renewal of certificate of fitness for motor vehicles, Rs.200/- is prescribed and in case of delay, an additional fee of Rs.50/- for each day of delay after expiry of certificate of fitness, shall be levied.

The contention of the learned counsel for the petitioner is that the fitness certificate expired on 8.6.2016 and the petitioner applied for renewal of fitness certificate on 25.1.2017, and as per un-amended Rules of 1989, as there is no provision for levy of penalty for delay in seeking renewal of fitness certificate and as the amending provisions came into force only with effect from 29.12.2016, the petitioner is not liable to pay penalty of Rs.50/- per day for each day of delay prior to the said date i.e., upto 28.12.2016 and that he is liable to pay the said amount for delay, only from 29.12.2016. Therefore, his contention is that the amending provisions, which levy penalty, cannot be made applicable restrospectively. In support of his contention, he placed reliance on the judgments reported in *M/S BEJGAM VEERANNA, VENKATA NARASIMHULU AND OTHERS v. STATE*

OF A.P.[1], *MAHARAJA CHINTAMANI SARAN NATH SHAHDEO v. STATE OF BIHAR*[2] and *SHYAM SUNDER v. RAM KUMAR*[3], the quintessence of which is that where a statutory provision is followed by new legislation by enactment of an amending Act, such new legislation is prospective in operation and that it does not affect substantive or vested rights of parties, unless it is made retrospective expressly or by necessary implication.

The learned Government Pleader on the last occasion has taken time to get instructions. Today, he placed copy of the letter dated 2.2.2017 addressed by the Government of India, Ministry of Road Transport and Highways, addressed to the Principal Secretaries (Transport)/ The Secretaries (Transport)/The Transport Commissioners of all the States/U.T Administrations, clarifying that the revised rates for delay fees can be charged at the new rates from the date of publication of the notification i.e, 29.12.2016 and not retrospectively. The relevant portion of said letter is extracted as under for ready reference:

> "Please refer to this Ministry's notification G.S.R.1183(E) dated 29th December, 2016, amending rule 32 and rule 81 of the Central Motor Vehicles Rules, 1989.
>
> 2. It is clarified that the revised rates for delay fees can be charged at the new rates from the date of publication of the notification i.e., 29th December, 2016 and not retrospectively."

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[1] AIR 1981 AP 350 (DB)
[2] AIR 1999 SC 3609
[3] (2001)8 SCC 24

In the light of the above clarification issued by the Government of India, clarifying that the revised rates for delay fees under Ministry's notification G.S.R.1183(E) dated 29.12.2016 amending Rules 32 and 81 of Central Motor Vehicles Rules, 1989, can be charged at the new rates from the date of publication of the notification i.e., 29.12.2016 and not retrospectively, the grievance of the petitioner stood redressed and the writ petition is disposed of accordingly at the stage of admission. No costs.

Miscellaneous petitions pending if any, shall stand closed.

CHALLA KODANDA RAM,J

DATE: 06—02—2016

AVS