

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2018

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THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P. 23245 of 2018

S.Sivakumar

... Petitioner

Vs.

The Secretary,
Regional Transport Authority,
Vellore-9.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the respondent made in R.No.A2/2148/2018, dated 06.03.2018 and to quash the same and consequently direct the respondent herein to renew the Autorickshaw Permit of the petitioner as applied for in respect of Vehicle Reg. No.TN-23/AD-1024.

For Petitioner : Mr.K.Hariharan
For Respondent : Mrs.K.Bhuvaneswari,
Addl. Government Pleader

ORDER

This Writ Petition has been filed for challenging the order passed by the respondent rejecting the petitioner's application for renewal of contract carriage auto rickshaw permit on the ground that it has been filed beyond the period of limitation.

2. The case of the petitioner is that he was granted with a auto rickshaw permit and it was periodically renewed upto 24.04.2017. For further renewal, the petitioner has filed the application, in which there was a delay of 276 days in filing the application. In view of that, the petitioner's application was rejected by the respondent. Challenging the order of rejection, the petitioner has filed the present Writ Petition.

3. Mr.K.Hariharan, learned counsel appearing for the petitioner submitted that due to illness, the petitioner was bedridden and hence, he is not able to file the application in time. Subsequently, after recovery, the petitioner has filed the application for renewal with the delay of 274 days and there is no malafide intention in filing the application with the delay of 274 days. But, without considering the same, the respondent

has rejected the application for renewal submitted by the petitioner.

4. Mrs.K.Bhuvaneswari, learned counsel appearing for the respondent submitted that under Sec.81(2) of the Act, the permit would be renewed on the application submitted 15 days before the expiry of the license period, but the petitioner has filed the application beyond the period of limitation with the delay of 274 days without any sufficient reasons. On considering those materials, the respondent has rightly rejected the application after considering the reasons stated by the petitioner.

5. I have considered the rival submissions and perused the records carefully.

6. Sec.81(2) of the Act prescribes that a permit may be renewed on the application made not less than 15 days before the expiry of license. However, under Sec.81(3) of the Act, authorities are empowered to entertain the application for renewal even after the last date specified under Sec.81(2) of the Act, and if applicant satisfy the authorities that the applicant is prevented by good and sufficient cause. The relevant portion of the Act is extracted hereunder :-

"81. Duration and renewal of permit.---

(1).....

(2) A permit may be renewed on an application made not less than fifteen days before the date of its expiry.

(3) Notwithstanding anything contained in sub-section (2) the Regional Transport Authority or the State Transport Authority, as the case may be, may entertain an application for the renewal of a permit after the last date specified in that sub-section if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified."

7. Rule 193-A of the Tamil Nadu Motor Vehicles Rules (hereinafter called as "Rules") prescribes the additional fee for filing the application for renewal of permit after expiry of last date and Rule 279 of the Rules prescribes the fees payable for the belated submission of application charging the late fee of Rs.100/-. From the perusal of the above provisions, it is clear that the authorities are empowered to condone the delay in filing the application for renewal, provided the authority is satisfied with the reason for the delay in filing the application. In the instant case, the petitioner has stated that due to illness, he was bedridden. In the said circumstances, he was not able to submit his application in time.

8. Considering the above facts, I am of the view that the reasons stated by the petitioner is sufficient for condoning the delay in filing the application and this court find no malafide intention in filing the application belatedly, as the petitioner is only eking out his livelihood from the income derived from auto rickshaw. The limitation prescribed by the statute is only to prevent the parties indulging dilatory tactics with the

malafide intention. In the said circumstances, this Court is of the opinion that the cause shown by the petitioner is sufficient. But, the authority without considering the same has rejected the application.

9. On considering the above facts and circumstances, the impugned order passed by the respondent is set aside and the respondent is directed to consider the petitioner's application and pass suitable orders for renewal of auto rickshaw permit within a period of four weeks from the date of receipt of the copy of this order.

10. With the above direction, the Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rpp

To

The Secretary,
Regional Transport Authority,
Vellore-9.

+lcc to Mr.K.Hariharan, Advocate sr.no.64466

W.P. 23245 of 2018

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