

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos. 38562 of 2003 & 873 of 2004

A.V.Mudaliandan

Proprietor,

Sri Barathi Velu Service,

Tirupathi, A.P.State

..Petitioner in

WP.No. 38562 of 2003

Thiru.A.M.Muniratna Mudaliar,

Prop. Sri Barathi Bus Service

145, T.P. Area,

Tirupathi, A.P.State.

..Petitioner in

WP.No.873 of 2004

Vs.

1.The State Transport Appellate
Tribunal, Chennai 104.

2. The State Transport Authority,
Chepauk, Chennai 600 005.

.. Respondents in
WP.No. 38562 of 2003

1.The State Transport Authority
Chepauk, Chennai 5.

2. The State Transport Authority,
Andhra Pradesh at Hyderabad.

.. Respondents in
WP.No. 873 of 2004

Prayer in W.P.No. 38562 of 2003: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ Certiorari, calling for the records relating to the State Transport Appellate Tribunal, Chennai made in Appeal No.195/2001 dated 29.8.2003 and quash the same.

Prayer in W.P.No. 873 of 2003: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ Certiorari, calling for the records relating to the State Transport Appellate Tribunal, Chennai made in Appeal No.471/2000 dated 08.4.2003 and quash the same.

For Petitioners : No appearance
(in both writ petitions)
For Respondents : M/s.K.Bhuvaneshwari
Additional Government Pleader

C O M M O N O R D E R

Since the prayer in the above Writ Petitions are one and the same, they are clubbed together and a common order is passed.

2. The above Writ Petitions are filed for issuance of a writ of certiorari, calling for the records relating to the State Transport Appellate Tribunal, Chennai made in Appeal No.195/2001 dated 29.8.2003 and quash the same.

3. For the sake of convenience, the petitioner in WP.No.38562 of 2003 is referred to as first petitioner and the petitioner in WP.No.873 of 2004 is referred to as second petitioner.

4. The first petitioner is a stage Carriage Operator in Tamil Nadu and Andhra Pradesh. His vehicle ATC 2266 was replaced by AP 03/V2266 issued by the State Transport Authority, Andhra Pradesh, Hyderabad and was duly signed by the State Transport Authority, Chennai. The said route is included in the inter-State Agreement entered between the Government of Tamil Nadu and Andhra Pradesh. The petitioner filed an application for four additional singles on the route by inclusion of one more vehicle and he was plying a bus TNM 3344 on the route with counter-signature issued by State Transport Authority, Chennai. However, the State Transport Appellate Tribunal set aside the said grant in favour of the petitioner and granted the same to the one Ramachandra Naidu, Thirupathi. The same was challenged by the first petitioner before the Andhra Pradesh High Court in WMP.No.726 of 1984 dated 18.04.1984 and the Court allowed the petition on payment of double point tax. At this juncture, he applied for counter signature to the State Transport Authority and it was also rejected. Against the order of rejection the first petitioner filed Appeal before State Transport Appellate Tribunal, Chennai and the same was dismissed, against which the petitioner has filed Writ Petition before this court.

5. The second petitioner is an inter-state stage carriage operator from Andhra Pradesh to Tamil Nadu. The second petitioner was granted an inter-state permit on the route Tirupathi to Arakonam. His permit was renewed from 01.01.2000 to 31.10.2005 by proceedings dated 29.09.2000 and duly counter signed by the State Transport Authority, Chennai. The petitioner applied for four additional singles by inclusion of one more vehicle AP 03/0707 since replaced by AP 03/2000 and lastly replaced as AP 03/V2777 and the State Transport Andhra Pradesh granted the same. He applied for counter signature of the said permit but the State Transport Authority, Chennai rejected the same. Against the order of rejection the second petitioner filed Appeal before State Transport Appellate Tribunal, Chennai and the same was dismissed, against which the petitioner has filed Writ Petition before this court.

6. It appears that similar type of issue was already dealt with by the Hon'ble Supreme Court in Civil Appeal No. 4480 of 1998 and the relevant paragraphs are extracted here under:

"50. ... (h). Increase in the number of trips or vehicles which were being run under the existing exempted permit under a scheme will amount to grant of a new permit to operate one more Stage Carriage which is not permissible under Section 68FF.

(i) The proposition of law, laid down by this Court in 'JAYARAM' impliedly stood overruled in 'ADARSH TRAVELS'.

(ii) The economy and coordination, two of the factors, which govern the Approved Scheme, will be seriously infringed if the variation is to be granted of the existing permit condition.

(i)....

(j)....

(k) Even if there is an interstate agreement under Section 63 of the Act for increasing the number of trips, such an agreement cannot override the provisions of Chapter IV-A by virtue of Section 68B of the Act. Section 63 being in

Chapter IV of the Act, the scheme approved under Chapter IV-A will prevail over it."

7. In view of the above decision, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(insp cell)

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Sub Assistant Registrar

kmm

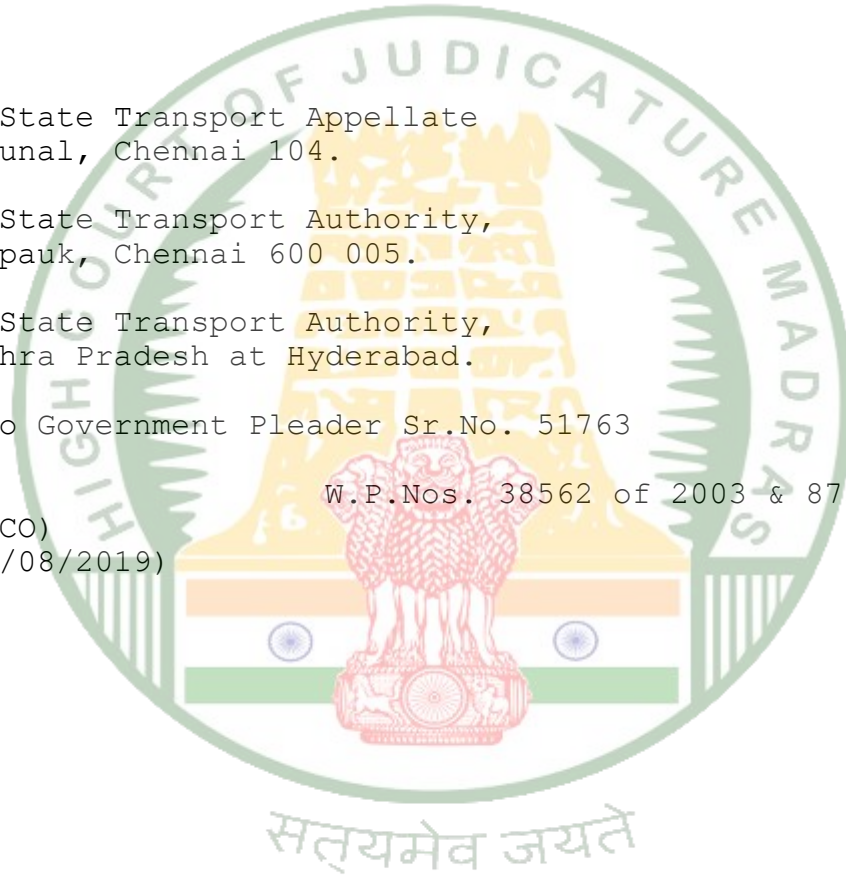
To

1. The State Transport Appellate Tribunal, Chennai 104.
2. The State Transport Authority, Chepauk, Chennai 600 005.
3. The State Transport Authority, Andhra Pradesh at Hyderabad.

+1 cc to Government Pleader Sr.No. 51763

W.P.Nos. 38562 of 2003 & 873 of 2004

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A.SK(21/08/2019)



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