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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.06.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.29912 of 2008

and

M.P.No.01 of 2008

P.Senthilnayagam

..Petitioner

vs

1. The State Transport Appellate Tribunal,
High Court Building,
Chennai 104.

2. The Regional Transport Authority,
Coimbatore (North),
Coimbatore.

3. M.Paul Jayaraj,

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari or any other appropriate writ or order or direction in the nature of a writ, calling for the records on the file of the first respondent dated 27.11.2008 made in R.P.No.64 of 2005 and quash the same in so far as the petitioner is concerned.

For Petitioner

: Mr.Krishnappan Senior Counsel
for Mr. K.Hariharan

For Respondents

: Mr.J.Ramesh for R1 and R2
Additional Government Pleader

: Mrs.A.L.Gandhimathi for R3

O R D E R

The case of the petitioner is that, the petitioner filed an application for the grant of a mini bus permit before the second respondent on 29.03.2001 to ply on the route, Selvapuram to Goundampalayam. The distance of the route is 10.90 Kms, out of which 3.80 Kms, is served sector and 7.10 Kms, is unserved sector. Similarly, the third respondent has also filed an application for grant of mini bus permit on 01.08.2000 in



respect of the route "Thudiyalur to Madathur" before the second respondent.

2 Further, the case of the petitioner is that the application of the petitioner was not considered by the second respondent. Earlier the petitioner filed a petition before this Court in W.P.No.23403 of 2004 for a Writ of Mandamus directing the second respondent to consider the application dated 29.03.2001. This Court by an order dated 17.08.2004 directed the second respondent to consider the application in accordance with law.

3 Similarly the third respondent also filed a writ petition before this Court in W.P.No.27912 of 2004. This Court by an order dated 29.09.2004, directed the second respondent to consider the application. The second respondent considered both the applications and arrived at a conclusion that the petitioner initially filed an application in the year 1998 and resubmitted the same application once again in the year 2001 and considering the disposal of the Writ Petition, this Court granted permission in favour of the petitioner to ply the mini bus in the above said route.

4 Aggrieved by the said order the third respondent filed an appeal as well as a revision before the STAT (State Transport Appellate Authority). After considering all those things the STAT by its order dated 27.11.2008 allowed the appeal and set aside the permit granted in favour of the petitioner and remanded back the issue to the second respondent. Aggrieved by the said order the present writ petition is filed.

5 The learned counsel for the petitioner would submit that though the original authority namely the Regional Transport Authority erroneously arrived at a conclusion that the petitioner resubmitted the application. However in all forms the date was mentioned as 29.03.2001, for the said route. The application submitted during 1998 is different route which was rejected earlier and the same was not resubmitted. However, the fact remains the writ petition filed by the petitioner is disposed of by this Court on 17.08.2004 and the Writ Petition filed by the third respondent was disposed of by this Court on 29.09.2004. Considering the above seniority, the authority granted permit in favour of the petitioner and the petitioner is enjoying the permit till today. Subsequently, the said permit was transferred to some third party and the third party was not substituted in the present Writ Petition. Accordingly, the petitioner prays for appropriate order.

6 The learned senior counsel appearing on behalf of the third respondent would submit that on a perusal of his own



application clearly reveals that the petitioner made an application on 29.03.2001 whereas the third respondent made an application on 01.08.2000 the maximum permit on the route is only 250 and 249 permits were already granted. The learned senior counsel would further submit that taking into consideration the seniority of the date of applications, the first respondent/State Transport Appellate Tribunal has to consider the applications on priority basis, therefore the petitioner is entitled to consider his application. The learned Senior Counsel for the petitioner relied on the unreported Division Bench Judgment of this Court dated 27.12.2004 in the case of E.Kader Batcha Vs.R.M.Veeramani and others. Wherein, this Court has observed as follows:

"Although the principle of first come, first served has not been specifically mentioned in Section 102 of the Act, in our opinion, it was open to the Regional Transport Authority to frame any objective and fair criteria for grant of permits where the applications are more than the vacancies. The principle first come first served certainly is one of those fair and objective criteria and the Regional Transport Authority is certainly within its jurisdiction to select this principle. Of course it could have adopted some other criteria, but it is not for this Court to say which of the various choices available to the Regional Transport Authority should have been followed. It is entirely within the jurisdiction of the Authority to select one of the various choices available to it, as long as that choice is not totally arbitrary and unfair vide Rama Muthuramalingam Vs. Dy.S.P., 2004 (5) C.T.C. All that is required is that there should be some objective, fair and reasonable criteria so that there is no grievance of pick and choose or collusion.

Hence we dispose of this bunch of writ appeal and writ petitions with the direction that in cases where the State Transport Appellate Tribunal has directed issue of permit, that order shall be treated to be a direction that the applications shall be considered in accordance with the principle of "first come first served" which was followed earlier by the Regional Transport Authority, The 18 permits shall be granted accordingly expeditiously."



7 follows

On a perusal of the records the undisputed case are as

8 The petitioner's mini bus permit application was made before the second respondent on 29.03.2001 and third respondent's application date was made on 01.08.2000. Even on a bare perusal of the said applications, the third respondent application is prior to the petitioner's application. Hence, the authority ought to have considered the third respondent's application first and thereafter to consider the application of the petitioner. In the present case the Regional Transport Authority committed an apparent error, as if substituting its own reason saying that 1998 application of the petitioner was substituted in the present application is erroneous and considered the case of the petitioner based on the Court orders and without applying the ratio laid down by this Court is illegal. As per the seniority of the date of applications, the second respondent ought to have given permit to the third respondent. Hence, the order of the first respondent perfectly valid.

9 In the result, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

sbn

Sub Assistant Registrar

To

1. The State Transport Appellate Tribunal,
High Court Building,
Chennai 104.

2. The Regional Transport Authority,
Coimbatore (North),
Coimbatore.

+1 cc to Mr.K.Hariharan, Advocate, S.R.No.49669
+1 cc to Mr.AL.Gandhimathi, Advocate, S.R.No.49278
+1 cc to the Government Pleader, S.R.No.50143

W.P.No.29912 of 2008
and
M.P.No.01 of 2008

SS (CO)
SSM(20/08/2019)