

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos. 26908 & 26909 of 2009

and

M.P.Nos. 1, 1 of 2009 and 1 & 1 of 2010

K.Mohammed Abdul Khader
Proprietor Japan Travels
54, Quaid-e-Milleth Street
Pulliangudi - 627 855.
in both writ petitions

..Petitioner

Vs.

1.The Secretary,
Regional Transport Authority
Tenkasi

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

3. The General Manager
Tamil Nadu State Transport Corporation,
(Madurai) Limited
Tirunelveli Region, No.19, Trivandram Road,
Vannarpettai Post - 627 003
Tirunelveli.

.. Respondents in both writ petitions

Prayer in W.P.No. 26908 of 2009: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ Certiorari, calling for the records of the second respondent in Appeal No. 266/2005 dated 16.11.2009 and to quash the same.

Prayer in W.P.No. 26909 of 2009: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ Certiorari, calling for the records of the second respondent in Appeal No. 168/2005 dated 16.11.2009 remitting the matter back to the first respondent for fresh consideration and to quash the same.

For Petitioner : M/s.Radha Gopalan
(in both writ petitions)

For Respondents : Mr.D.Raghu
Government Advocate
for R1 & R2.
M/s.Rita Chandrasekaran
for Mr.Jayesh B.Dolia
for R3.
(in both writ petitions)

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 case of the petitioners is that he is a stage carriage operator, operating the vehicles on the routes "Shencottah Melur to Kadayanallur Hospital" via. Shencottah Bus Stand etc. places. Originally the permit was granted on the route Shencottah Melur to Kadayanallur Bus Stand opposite road point. Subsequently the petitioner applied for extension of the town service route from kadayanallur Bus Stand opposite road to Kadayanallur Hospital and the same was granted by the second respondent herein and timings have also been fixed pursuant to the said extension. The pattern of trips are Shencottah Melur to Kadayanallur Bus Stand opposite road Point, 4 singles and Shencottah Melur to Kadayanallur Hospital, 12 singles. Thereafter, the petitioner has been operating the vehicles in the said extension from the year 1993. Aggrieved by the grant of above permits, the Transport Corporation filed W.P.Nos.1218 to 1220 of 1993 before this Court. This Court allowed the W.P.Nos.1218 to 1220 of 1993 filed by the Transport Corporation challenging the permits granted in favour of the petitioner and set aside the orders that granted permits in favour of the petitioner.

3. Challenging the same, the petitioner preferred WA.Nos.1887 to 1889 of 2000. The First Bench allowed the Writ Appeal stating that the above routes are not over lapping, pursuant to which, the grant of permits in favour of the petitioner were confirmed.

4. Since, the petitioner was not able to keep up the timings as stated above, he applied for revision of timings. Therefore, a timing conference was convened on 12.01.2005, wherein, the third respondent suggested that the original permit has to be decided according to the decision in W.P.No. 11410 of 1995. The first respondent after considering the objections raised by the third respondent revised the timings. Aggrieved by the same, the 3rd respondent preferred Appeal No. 168 of 2005 before the 2nd respondent. Pending the appeal preferred by the

3rd respondent, the petitioner again filed for revision of timings on 10.03.2005. The 1st respondent granted a revision of timings in favour of the petitioner. The 3rd respondent once again filed M.V. Appeal No. 266 of 2005 before the Second respondent against the order of the first respondent dated 10.03.2005. The 2nd respondent dismissed the Appeal No. 168 of 2005, in view of the revision granted by order dated 10.03.2005.

5. Challenging the same, the 3rd respondent filed a writ petition in WP.No.14260 of 2009. This Court allowed WP.No.14260 of 2009 on 01.09.2009 and remitted the matter back to the 2nd respondent for fresh disposal. The second respondent allowed the Appeal No. 168 of 2005 and 266 of 2005 and remitted the matter back to the 1st respondent for fresh consideration setting aside the orders of the first respondent dated 08.02.2005 & 10.03.2005 granting extension of time. Aggrieved by the orders made in Appeal Nos.168 of 2005 and 266 of 2005, the present Writ Petitions are filed.

6. In the meanwhile, the learned counsel appearing for the petitioner would submit that while entertaining the present writ petition, this Court granted interim stay and allowed the petitioner to enjoy the revision of timings on 10.03.2005. However, in the meanwhile, W.P.Nos. 11410 to 11412 of 1995 were dismissed by observing that the issues raised in the said writ petitions has already been resolved by the Division Bench of this Court in Judgement, dated 12.02.2002. The learned counsel for the petitioner would submit that since the said orders of the Division Bench have become final, no further orders are required in the present Writ Petitions and the orders passed in the Writ Appeals dated 12.02.2002 shall form part of this order.

7. The learned counsel appearing for the 3rd respondent would submit that though revision of timings were not accepted by the Tamil Nadu State Transport Corporation, the Transport Authority has revised the timings and therefore, he prays for appropriate orders in the present Writ Petitions.

8. On perusal of the records, it is seen that the first respondent after convening the Timing Conference, granted revision of timings in favour of the petitioner on 10.03.2005.

9. The petitioner is enjoying the revision of timings and the general Public are also enjoying the benefit revision of timings. The third respondent without any proper reasons objected the grant of permit to the petitioner which resulted in a huge revenue loss. The decision of the Division Bench in WA.Nos.1887 to 1889 of 2000 should be taken into consideration, wherein, the First Bench of this Court allowed the appeals stating that the routes are not overlapping. In view of the

same, the revision of timings granted by the first respondent on 10.03.2005 is hereby confirmed and therefore, I do not find any reasons to remand the matter back to the Authority for reconsideration.

10. Accordingly, the present writ petition stand closed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

- 1.The Secretary,
Regional Transport Authority
Tenkasi
 2. The State Transport Appellate Tribunal
High Court Campus, Chennai.
 3. The General Manager
Tamil Nadu State Transport Corporation,
(Madurai) Limited
Tirunelveli Region, No.19, Trivandram Road,
Vannarpettai Post - 627 003
Tirunelveli.
- +1 CC to M/s. S. Radha Gopalan, Advocate sr 63635.
+1 CC to M/s. Aiyar and Dolia, Advocate sr 63148.

सत्यमेव जयते

W.P.Nos. 26908 & 26909 of 2009

VD(CO)
SP(19/09/2019)

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