

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 04.04.2019

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.3098 of 2019
and
W.M.P.Nos.3362 & 3365 of 2019

A.Tamizhselvan

...Petitioner

Versus

The Secretary,
The State Transport Authority,
Puducherry.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records of the respondent in No.134/PY/1995/TD/TP-1/2018 dated 21.01.2019 rejecting the application of the petitioner for renewal of permit dated 11.06.2015 and the application for replacement of vehicle dated 29.01.2018 and to quash the same.

For Petitioner : Mr.S.Radha Gopalan

For Respondent : Mr.A.V.Ramalingam,
Addl. Govt. Pleader (Puducherry)

O R D E R

With consent, this Writ Petition is taken up for final disposal.

2. The learned counsel appearing for the petitioner submitted that the petitioner is a stage carriage operator, operating a vehicle bearing Registration No.TN-67/D-8262 re-registered as PY-01/CK-6852 plying on the route "Kanagachettikulam to Bahour" via., Kalapet, Muthialpet, Pondicherry, Villianur, Kottaimedu etc., places. The said permit 134/PY/1995 was issued on 22.11.2010 and permit was valid upto 29.06.2015. Therefore, the petitioner submitted an Application for renewal of permit dated 11.06.2015 for a further period of five years from 30.06.2015 after paying necessary fees. Thereafter, in order to run on the route, the petitioner made yet another application dated 29.01.2018 for replacement of the vehicle bearing Registration No.PY-01/CK-6852 with new vehicle bearing Registration No.PY-01/AX-4455 after paying necessary fees.

3. The learned counsel for petitioner also submitted that the respondent has passed orders under Section 81(4) of the Motor Vehicles Act (hereinafter referred to as "Act") in No.135/PY/1995/TD/TP-1/2018 dated 21.01.2019 rejecting the applications of the petitioner for renewal of permit and replacement of vehicle in the permit without giving an opportunity of hearing to the petitioner. The learned counsel assailed the impugned order by stating that as per proviso to Section 81(4) of the Act no application under this sub-section shall be rejected unless an opportunity of being heard is given to the applicant/petitioner herein.

4.1. The learned Additional Government Pleader (Puducherry) appearing for respondent submitted that the petitioner's Applications were considered and the notice has been served on the petitioner and the petitioner also responded to the said notice by raising objections. Therefore, he submitted that the impugned order passed by the respondent is not in violation of principles of natural justice.

4.2. He further argued that the respondent also provided an alternate remedy to the petitioner i.e., to file an Appeal before the State Transport Appellate Tribunal under Section 89 of the Motor Vehicles Act, 1988 read with Rule 84(1) of Puducherry Motor Vehicles Rules, 1989.

5.1. On perusal of the impugned orders passed by the respondent, it is seen that prior to the passing of the impugned orders the respondent has not provided any opportunity of personal hearing to the petitioner. It is absolutely a violation of statutory provision under Section 84(1) of the Act. In the impugned orders, the respondent has referred about the Applications submitted by the petitioner and the objections of the parties concerned but in the said orders, there was no reference about the Hearing Notice dated 06.06.2018 issued by the respondent/Authority directing the petitioner to appear for personal hearing. However, but the petitioner's counsel fairly submitted that the Notice dated 06.06.2018, issued by the respondent is not pertaining to the Application dated 11.06.2015 submitted by the petitioner for renewal of permit. In the case of Commissioner of Income Tax and Others Vs. Chhabil Dass Agarwal reported in (2014) 1 SCC 603, the Honourable Supreme Court has held that alternative remedy available under statute is not a bar to entertain a Writ Petition under Article 226 of the Constitution of India, where statutory authority passed an order in total violation of principles of natural justice. Therefore, it is clear that prior to the passing of the impugned order, the petitioner was not afforded with an opportunity of personal hearing by the respondent as per the provisions under Section 81(4) of the Act.

5.2. Further, on perusal of the Notice dated 06.06.2018, it is seen that the respondent has referred nothing about the Application dated 11.06.2015 made by the petitioner directing the petitioner to appear for personal hearing on 11.06.2018. Thus, on combined reading of the Notice dated 06.06.2018 and the impugned order passed by the respondent dated 21.01.2019, it came to light to this Court that prior to the passing of the impugned order dated 21.01.2019, the respondent has not provided an opportunity of personal hearing to the petitioner.

6. In view of the facts and circumstances of the case, this Court directs the petitioner to appear before the respondent on 08.04.2019 and the respondent is directed to afford an opportunity of personal hearing to the petitioner and thereafter, shall pass appropriate orders on merits and in accordance with law.

7. In the upshot, this Writ Petition is allowed with the above directions and the order passed by the respondent in No.134/PY/1995/TD/TP-1/2018 dated 21.01.2019 is quashed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mrr

To

The Secretary,
The State Transport Authority,
Puducherry.

+1cc to Mr.S.Radha Gopalan, Advocate, S.R.No.32812
+1cc to the Government Pleader, S.R.No.32965

W.P.No.3098 of 2019

NA(CO)

RRS (05/04/2019)

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