

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2019

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.Nos.9110 & 9114 of 2019

G.Ganapathy

...

Petitioner in

W.P.No.9110 of 2014

G.Ravikumar

...

Petitioner in

W.P.No.9114 of 2014

Vs.

The Regional Transport Authority,
Chennai North Zone,
Chennai - 102.

...

Respondent in

W.P.No.9110 of 2014

The Regional Transport Authority,
Vellore District,
Vellore.

...

Respondent in

W.P.No.9114 of 2014

Prayer in both Writ Petitions:- These Writ Petitions are filed under Article 226 of the Constitution of India, seeking for issuance of Writ of Certiorari and Mandamus to call for the records relating to the order of the respondent made in R.No.75279/B3/2018, dated 31.01.2019 & R.No.004626/A2/2019, dated 27.02.2019, respectively, and quash the same and consequently direct the respondent in both Writ Petitions to renew the petitioners' Auto rickshaw permit as applied for in respect of the vehicle bearing Nos.TN-03/R-5827 & TN-23/K-0427 respectively, forthwith.

For Petitioner in both
Writ Petitions

:

Mr.K.Hariharan

For Respondent in both
Writ Petitions

:

Mr.M.Karthikeyan
Additional Government Pleader

C O M M O N O R D E R

Mr.M.Karthikeyan, learned Additional Government Pleader takes notice for the respondent. By consent, these Writ Petitions are taken up for final disposal at the stage of admission itself.

2. The case of the petitioners is that they made applications for renewal of auto rickshaw permit under Section 81(2) of the Motor Vehicles Act, to the respondent respectively, however the same were rejected on the ground of delay. It is further submitted that as per Section 81(3) of the Motor Vehicles Act, the respondent has got power to condone the delay, if delay is properly explained by the applicants. According to the petitioners due to ill-health, the petitioners could not submit the renewal application in time and in order to prove the same, they produced the medical certificates dated 20.11.2018 & 19.02.2019 respectively. However, the respondent without considering the fact, dismissed the applications filed by the petitioners on the ground that the petitioners approached the respondent with an inordinate delay of delay of 298 & 148 days respectively vide order dated 31.01.2019 & 27.02.2019.

3. The learned counsel for the petitioners would submit that in similar situation, this Court in W.P.No.11657 of 2018, dated 04.05.2018, after condonation of delay, has directed the Authority to consider the renewal application on merits.

4. According to the learned Additional Government Pleader, the delay of 298 & 148 days respectively in filing the renewal applications were not properly explained by the petitioners and therefore, the said applications were rightly rejected by the respondent. Hence, there is no illegality or violation of any provisions of the Motor Vehicles Act and it is perfectly valid in law.

5. The main contention of the learned Additional Government Pleader that applications were filed by the petitioners after the expiry of the time stipulated under the statue for making such application. In other words, it is the contention of the respondent that such application should have been made 15 days prior to the expiry of the original permit.

6. At this juncture, it would be useful to refer Sections 81 (2), 81(3) & 81(5) of the Motor Vehicles Act:-

" 81(2) A permit may be renewed on an application made not less than fifteen days before the date of its expiry.

81 (3) Notwithstanding anything contained in sub-

section (2), the Regional Transport Authority or the State Transport Authority as the case may be, 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.

81 (5) Where a permit has been renewed under this section after the expiry of the period thereof, such renewal shall have effect from the date of such expiry irrespective of whether or not a temporary permit has been granted under clause (d) of section 87, and where a temporary permit has been granted, the fee paid in respect of such temporary permit shall be refunded."

7. It is no doubt, the petitioners made applications under Section 81(2) of the Motor Vehicles Act to the respondent respectively for renewal of permit, however, the said applications were dismissed on the ground of delay of 298 & 148 days respectively. Section 81(3) prescribes that Transport Authority can entertain an application for the renewal of a permit, if sufficient explanation is given. In this case, it is seen that due to ill-health, the petitioners could not approach the respondent in time and in order to prove the same, they produced medical certificates dated 20.11.2018 & 19.02.2019 respectively. However, the said fact was rejected by the respondent for condonation of delay in filing the application for renewal of permit. In similar matter, an identical issue was considered by this Court in W.P.No.11657 of 2018, dated 04.05.2018, wherein this Court accepted the contention raised by the petitioner therein and set-aside the impugned orders and directed the respondent therein to pass orders on the said renewal application on merits and in accordance with law. The operative portion of the order reads as follows:-

"5. Considering the fact that the petitioner was ill and took treatment he could not file the application in time, hence, I am inclined to allow the Writ Petition. Hence, the impugned order is set-aside and the respondent is directed to pass orders on the said renewal application on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order."

8. In view of the above fact and in the light of the order passed in W.P.No.11657 of 2018, dated 04.05.2018, the orders passed by the respondent in both Writ Petitions, dated 31.01.2019 & 27.02.2019, are set-aside. However, since there was an ordinate delay of 298 & 148 days in filing the

application for renewal of auto rickshaw permit, this Court directs the petitioner in W.P.No.9110 of 2019, to pay a sum of Rs.1,500/- [Rupees One Thousand Five Hundred only] to the Mediation and Conciliation Centre, Chennai and the petitioner in W.P.No.9114 of 2019 is directed to pay a sum of Rs.1,500/- [Rupees One Thousand Five Hundred only] to the Mediation Centre attached to District Legal Services Authority, Vellore, within a period of one week from the date of receipt of a copy of this order. On receiving the proof of making such payment, the respondent respectively, shall consider the application filed by the petitioners seeking for renewal of the auto rickshaw permit and dispose of the same in accordance with the provisions of the Motor Vehicles, Act, 1988, within a period of four weeks therefrom. There is no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

r n s

To

1. The Regional Transport Authority,
Chennai North Zone,
Chennai - 102.
2. The Regional Transport Authority,
Vellore District,
Vellore.

copy to: 1) The Secretary,
Mediation & Conciliation Centre,
High Court Campus, Chennai.

- 2) The Secretary,
Mediation & Conciliation Centre,
District Legal Services Authority,
Vellore.

+2ccs to Mr.K.Hariharan, Advocate, S.R.No.29267, 29268

+1cc to the Government Pleader, S.R.No.29790, 29790

W.P.Nos.9110 & 9114 of 2019

PMS(CO)
SSM(01/04/2019).