

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 03.08.2021	Orders Delivered on : 19 .08.2021
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CORAM

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

CRP. (NPD) No. 515 of 2021

and

C.M.P. No. 4440 of 2021

M.Anandkumar Petitioner

Versus

The Regional Transport Authority,
Krishnagiri District. Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the judgment dated 06.02.2020, in M.V.Appeal No.33 of 2018, passed by the Hon'ble State Transport Appellate Tribunal, Chennai - 600 104 and consequently, direct the respondent to renew the permit of the petitioner in respect of the route Hosur to Dharmapuri, (via Krishnagiri) for the period from 21.04.2017 to 20.04.2022.

For Petitioner : Mr. K.Venkatesan

For Respondent : Dr. S.Suriya

Government Advocate

O R D E R

This Civil Revision Petition is filed against the order of the learned State Transport Appellate Tribunal, Chennai passed in M.V.A. No.33 of 2018 on 06.02.2020.

2. The appeal was filed by the petitioner against the order of the Regional Transport Authority, Krishnagiri, made in proceedings in R.No.A4/4406/2018, dated 28.04.2018, wherein the application for grant of renewal of stage carriage permit to ply on the route “Hosur to Dharmapuri (via) Krishnagiri” in the place of petitioner's previous permit which was not renewed beyond 20.04.1972, was rejected.

3. Learned counsel for the petitioner submitted the petitioner submitted an application before the respondent on 26.03.2018 seeking renewal of permit. It is the case of the petitioner that the his grand mother Tmt. N.Sarojamma was a stage carriage operator. She was operating one Inter-State Route from Berigai to Bangalore and another Intra District route from Hosur to Dharmapuri. Her

husband died on 23.03.1966 and thereafter she maintained the properties including stage carriage. In a family partition, the route from Berigai to Bangalore was transferred to another person. The route from Hosur to Dharmapuri was abandoned and no steps was taken for resuming the service. The petitioner was a teenage student and he was not aware of stage carriage permit. Subsequently, he came to know about the stage carriage permit in favour of Sarojamma. He received no objection certificate from all the legal heirs of Sarojamma and filed application for renewal of stage carriage permit and the same was not considered favourably by the authorities concerned. Hence, the petitioner filed a writ petition in W.P. No.34352 of 2017 and the High Court gave direction to consider his application dated 04.04.2017. He sought the renewal of permit in his name for the route of “Hosur to Dharmapuri” for the period from 21.04.2017 to 20.04.2022. In his proceedings dated 28.04.2018, the Regional Transport Authority, Krishnagiri, after hearing the petitioner and considering the records, rejected the petitioner's application for renewal of lapsed permit beyond 20.04.1972. Against the said order, the petitioner has preferred M.V.A. No.33 of 2018. The learned State Transport Appellate Tribunal, after considering elaborately the submissions made by the

petitioner, dismissed the appeal. Against the said appeal this civil revision petition is preferred.

4. Learned counsel for the petitioner submitted that the learned Tribunal has not properly considered the grounds raised in the appeal and the case of the petitioner is not properly appreciated. He further submitted that the reason given by the respondent for rejecting the application for renewal of permit on the assumption that application has become null and void due to efflux of time, is not correct. There was family dispute amongst the children of Sarojammal and then it was settled and the stage carriage permit to the route of 'Hosur to Dharmapuri' fell to the share of the petitioner. This Court, by its order dated 24.01.2018 in W.P. No.34234 of 2017, directed the respondent to consider the application of the petitioner on merits and pass orders within a period of twelve weeks. The learned State Transport Appellate Tribunal failed to appreciate the delay in filing the application for renewal. The Tribunal is vested with the powers to condone the delay under Section 81 (3) of the Motors Vehicles Act. Therefore, learned counsel for the petitioner prayed for setting aside the order of State Transport Appellate Tribunal and directing the respondent to renew

permit.

5. Learned counsel appearing for the respondent opposed this petition on the ground that the permit got expired in the year 1972. The respondent had considered the request in the light of legal provisions and rejected the claim of the petitioner. Even in the appeal, the claim of the petitioner was considered in the light of relevant provisions and the learned State Transport Appellate Tribunal has rightly dismissed the appeal. Therefore, the learned Government Advocate prayed for the dismissal of this appeal.

6. The petitioner has produced the copy of the proceedings in R.No.35854/A4/66 of the first respondent granting permit to Sarojammal. He also produced the application for renewal of permit dated 04.04.2017 and 26.03.2018. The proceedings of the respondent dated 28.04.2018, rejecting the renewal application is also produced. Reading of the said order shows that after a gap of 46 years, the petitioner applied for grant of renewal of stage carriage permit. It is further said that during 1967, the Government of Tamilnadu took a decision to nationalise all the stage carriage permits of the

private operators relating to the routes terminating at Madras city. The policy decision of the Government was issued in G.O. Ms.2282 dated 11.09.1969. In pursuant to the above policy, a draft notification was issued under Section 68 of repealed Act. Till the approval of all the draft schemes, the permits of the private operators are not renewed. Temporary permits were issued to private stage carriage operators till the renewal of permits were granted. After the schemes were approved, orders were issued rejecting the application for renewal of permits in order to give effect to the approved schemes. The petitioner has requested to grant renewal of his stage carriage permit after a period of 46 years. The Government has implemented Tamilnadu Motor Vehicles (Special Provisions) Act 41 of 1992 with effect from 31.07.1992. As per the act, the right of the small operators who owns stage carriage permit from 04.06.1996 to 30.06.1990 alone had been protected and all other permits and schemes are handed over to State Transport undertakings. Therefore, it is stated that the petitioner does not have the right to ask for grant of renewal of permit as the vehicle was not in operation in the above said period. In this view of the matter, the petitioner's application was rejected.

7. Consideration of the materials and the submissions made by the learned counsel appearing for the parties shows that the petitioner applied for renewal of permit granted to his grand mother, which was not extended after 1972. Though it is claimed by the petitioner that renewal application was submitted earlier, the petitioner has not produced any material to show that renewal application was given in the year 1972. Renewal application was submitted only on 04.04.2017 for the period from 21.04.2017 to 20.04.2022. This claim was rejected on the ground that on the date of application, there was no valid permit available in favour of the petitioner. As per Section 82, when a holder of a permit dies, the person entitled to succeed to the possession of the vehicle covered by the permit, has to inform within 30 days of the death of the holder to the transport authority, which granted the permit of the death of the holder and of his own intention to use the permit. That is not done in this case. Section 10 of the Tamil Nadu Motor Vehicles (Special Provisions) Act, 1992 protects only the permits or renewal of permits existed during the period 04.06.1976 and ending with the date of publication in the Tamil Nadu Government Gazette. During this period, the petitioner was not having any permit in his name.

8. In the appeal before the learned State Transport Appellate Tribunal, the petitioner has raised the issues now raised. The Tribunal considered the relevant provisions under Section 82(2) of Motor Vehicles Act, 1988, regarding transfer of permit. It is found that in the case before hand, the original permit holder expired in the year 1992. No steps had been taken by the petitioner to transfer the permit in his name. On the date of filing the renewal application, the permit was not in the name of the petitioner. Therefore, he is not eligible to apply for renewal in his name. It is also held that during the hearing, the petitioner failed to produce the records regarding the renewal application given in the year 1972 or permit copy, vehicle number etc. It is also found that in the application fore renewal of permit, the number of permit and date of issue were not filled up. The vehicle was not operated after 20.04.1972. There is no proof for plying the vehicle from the year 1972. As per 2nd proviso to Section 82 (2) of the Motor Vehicles Act, 1988, no permit shall be so used after the date on which it would have ceased to be effective without renewal in the hands of the deceased holder. When there is no permit or transfer of permit in favour of the petitioner, he cannot claim renewal. Finally,

it is held that grant of permits or renewal of permits existed during crucial period alone have been protected under Section 10 of Tamil Nadu Motor Vehicles (Special Provisions) Act, 1992.

9. The petitioner or his grand mother has not been granted any permit from the year 1972 onwards. The petitioner was not holding any permit for the route from Hosur to Dharmapuri and therefore he is not entitled to claim renewal. The reading of this order makes it clear that the grounds raised by learned counsel for the petitioner had been considered appropriately and found that the petitioner is not entitled for the relief claimed for.

10. This Court finds no reason to interfere with the order passed by the learned State Transport Appellate Tribunal, Chennai, in M.V.A. No.33 of 2018 dated 06.02.2020. In this view of the matter, this Civil Revision Petition is dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is closed.

19.08.2021

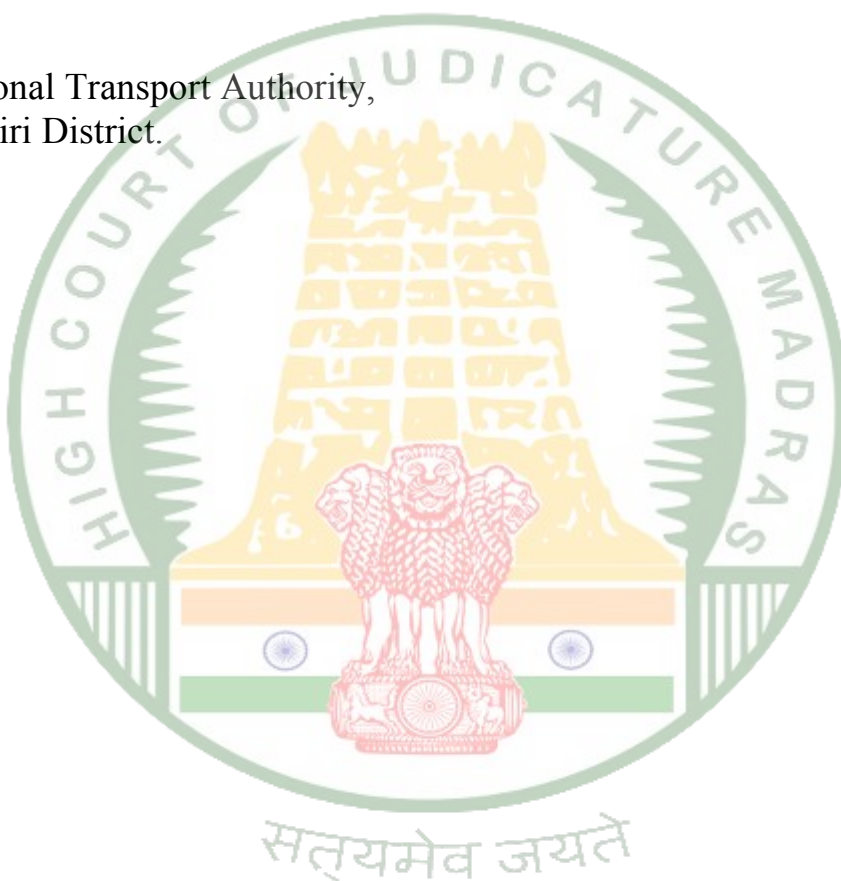
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Index: Yes / No

Speaking order / Non speaking order

To:

1. The State Transport Appellate Tribunal,
Chennai.
2. The Regional Transport Authority,
Krishnagiri District.

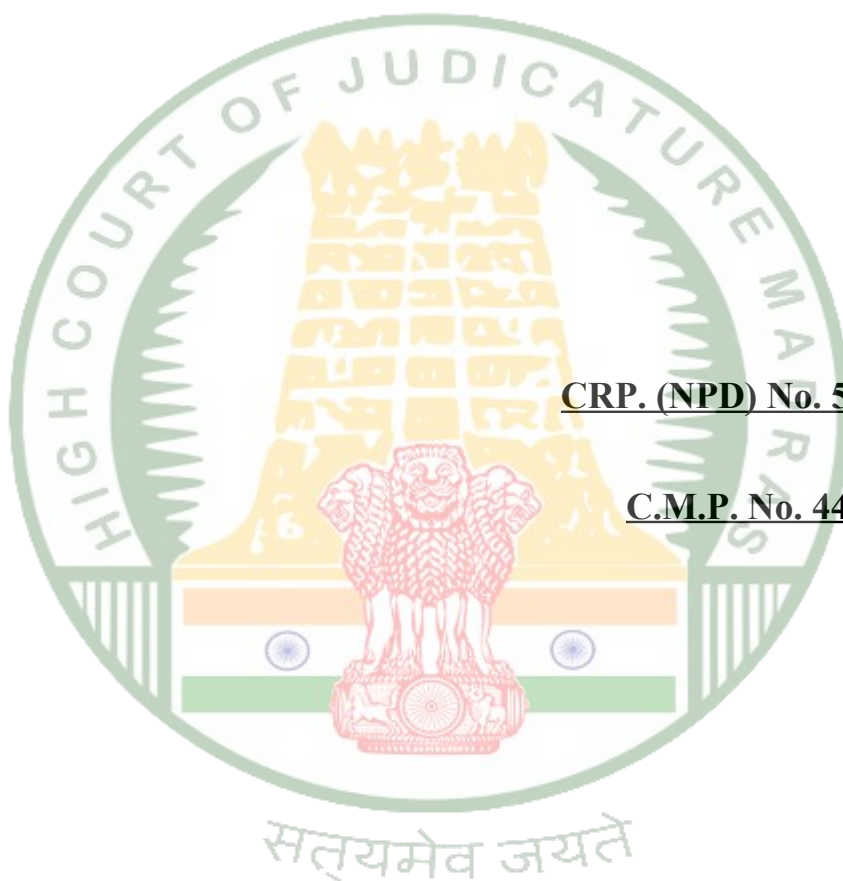


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