

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2021

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.12728 of 2021

R.Dhanapal

... Petitioner

Vs.

1.The Transport Commissioner,
Chepauk,
Chennai-600 005.

2.The Regional Transport Officer,
Regional Transport Office,
Thiruchengode,
Namakkal District.

3.The Inspector of Police,
Elachipalayam Police Station, (Incharge),
Mallasamuthiram Police Station,
Namakkal District.

4.The Branch Manager,
Tamil Nadu State Transport Corporation,
Thiruchengode Branch,
Namakkal District.

.... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to return the petitioner's driving licence in D.L.No.TN28 1991 0000513 and enable him to join and continue his service in the 4th respondent Transport Corporation.

For Petitioner : Mr.R.Surya Prakash

For Respondents : Mr.M.R.Gokul Krishnan

J U D G M E N T

(The case has been heard through video conference)

This petition is filed to direct the respondents 1 to 3 to return the petitioner's driving licence in D.L.No.TN28 1991 0000513 and enable him to join and continue his service in the 4th respondent Transport Corporation.

2. According to the petitioner, one Mrs.Kalpana, W/o.Madheswaran, made a complaint before the 3rd respondent stating that the petitioner was a driver of the Transport Corporation bus, and while he was driving the bus bearing Registration No.TN 30 N 1359, attempted to overtake her husband's two wheeler motorcycle bearing Registration No.TN 45 M 5326 super XL, and caused the accident at about 19.00 hrs., near Arupathamparai, as a result of which, her husband died on the spot and the pillion rider of the two wheeler, who is her mother-in-law suffered grievous injuries and also died on the way to hospital. The respondent police registered a criminal case in Crime No.189 dated 04.04.2021 against the petitioner for the offences under Sections 279, 338 and 304(A) of IPC. In view of the fact that the criminal case was registered by the police as against the petitioner, his original driving licence has been seized by the police and the same was handed over to the 2nd respondent RTO for suspension of his licence. The petitioner made representations to the respondents to return his driving licence which was seized by the 2nd respondent. Till date, his representation was not yet considered. In view of the fact that the petitioner is not in a position to join duty without licence, filed the present writ petition before this Court.

3. The learned Government Advocate appearing for the respondents 1 and 2 would submit that a counter has been filed by the 3rd respondent stating that a criminal case in Crime No.189 of 2021 dated 04.04.2021 has been registered under Sections 279, 338 and 304(A) of IPC as against the petitioner. Therefore, Section 206(2) of the Motor Vehicles Act, provides Power to Police Officer to impound document. Therefore, the petitioner's representation will be considered in accordance with the aforesaid Rule 206 of the Motor Vehicles Act, 1988.

4. The learned counsel for the petitioner placed reliance on the decision rendered by this Court in W.P.Nos.5009 and 5011 of 2019 dated 05.03.2019, wherein, on the similar issue, this Court has considered and directed the party to approach the R.T.O. concerned and on such application is being received, the R.T.O. concerned shall consider such application and pass appropriate orders for issuing temporary acknowledgment as per Section 206 (3) of the Motor Vehicles Act, within a period of one week thereafter.

5. In the light of the above, this writ petition is also be disposed of on the same line as per the order passed by this Court in W.P.Nos.5009 and 5011 of 2019 dated 05.03.2019, the RTO concerned on receipt of application by petitioner, shall pass orders on merits, within a period of two weeks from the date of receipt of a copy of this order. It is made clear that the

application of the petitioner will be considered only on receipt of the original driving licence from the concerned Station House Officer. The petitioner also make a copy of the said application to the 2nd respondent along with the order.

6. With the above directions, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssn
To

- 1.The Transport Commissioner,
Chepauk,
Chennai-600 005.
- 2.The Regional Transport Officer,
Regional Transport Office,
Thiruchengode,
Namakkal District.
- 3.The Inspector of Police,
Elachipalayam Police Station, (Incharge),
Mallasamuthiram Police Station,
Namakkal District.
- 4.The Branch Manager,
Tamil Nadu State Transport Corporation,
Thiruchengode Branch,
Namakkal District.

+lcc to Mr.R.Suryaprakash, Advocate Sr.31318
+lcc to the Government Pleader Sr.31203

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