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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.NO.27080 OF 2019

K.C.Sundaramurthy

... Petitioners

-Vs-

1. The Regional Transport Officer,
Mettupalayam,
Coimbatore District.
2. TVL. Lakshmi Transport,
Coimbatore.
[R2- Impleaded as per order
dated 26.09.2019 in W.M.P.No.27187
of 2019 in W.P.No.27.08.2019]

... Respondents

PRAYER:-

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus or any other appropriate Writ or order or direction in the nature of a Writ, directing the Respondent to carry out the consequential timing granted in favour of the petitioner's vehicle, operating on the route Sathyamangalam to Coimbatore as found at S.No.6 of the proceeding, bearing R.No.92471/A3/95, dated 05.12.1995 in the permit copy of the petitioner and thus render justice.

For Petitioner : Mr.M.Palani

For Respondent : Mr.A.Selvendran
Government Advocate
For R1

O R D E R

This writ petition has been filed for the issue of a writ of Mandamus directing the 1st respondent to carry out the consequential timing granted in favour of the petitioner's Vehicle operating on the Sathyamangalam to Coimbatore route, within the time frame fixed by this Court.



2. The case of the petitioner is that he is a stage carriage operator, operating the stage carriage service in Coimbatore to Sathyamangalam route via Puliampatty, since 1986. The further case of the petitioner is that the State Transport Corporation, Coimbatore introduced a new service in the Coimbatore to Sathyamangalam route via Annur and Puliampatty and in order to implement the same, a timing conference was held in the Regional transport office, Coimbatore (North). In the said timing conference, the timings were fixed in favour of the Transport Corporation and in view of the same, the consequential timings were given to the petitioner's vehicle and other operators through proceedings dated 05.12.1995.

3. It is stated that the consequential timing that was given, was not endorsed in the permit copy. However, the petitioner claims that he was operating in the said timings as per the proceedings dated 05.12.1995.

4. The grievance of the petitioner is that all of a sudden there was an objection raised on the timings during which the petitioner was operating the stage carriage vehicle on the ground that the same did not find place in the permit copy.

5. The petitioner made a representation on 21.08.2018 by explaining the entire facts and bringing to the notice of the 1st respondent regarding the proceedings dated 05.12.1995 and the petitioner applied for the endorsement of the changed timings in the permit.

6. The grievance of the petitioner is that the 1st respondent was not acting upon the representations made by the petitioner on the ground that the original records are not available and as a result of the same, the petitioner is not able to operate the stage carriage permit. Left with no other option, the petitioner has approached this Court seeking for appropriate directions.

7. The first respondent has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder.

VI The petitioner should have made an application to the Secretary Regional Transport Authority, Coimbatore (North, as soon as proceedings is received for making consequential change of timings entries in the Permit copy of his bus. But the petitioner failed to apply to Secretary, Regional Transport Authority, Coimbatore (North) to get Consequential Change timings entered in his bus permit. Now, after a



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lapse of 24 years he petitioner has applied for making necessary Consequential Change of timings in his bus permit. If the applicant had acted in time as soon as proceedings of the timing conference held is received from the Secretary, Regional Transport Authority, Coimbatore (North) the present problem would not have come up.

X The connected file in R.No.92471/A3/1995 dated 05.12.1995 in which the Secretary, Regional Transport Authority, Coimbatore (North) has conducted timing conference and timings approved by him including consequential change (CC) of timings modified in respect of the vehicle of the petitioner mentioned in the affidavit in WP No.27080 of 2019 was not received in this office.

XII Subsequently, the petitioner of the vehicle has approached the Regional Transport Officer, Coimbatore(North) along with this office letter for getting Consequential Change of timings entries in his permit as per proceedings issued by the Secretary, Regional Transport Authority, Coimbatore (North) in R.No.9247/A3/1995 dated 05.12.1995. The Secretary, Regional Transport Authority, Coimbatore (North) has sent reply in his letter R.No.85364/A4/2018 dated 16.07.2019 stating that the back file (Original file) was not available with them and the stage of the file also not known. He has further requested this office to make Consequential Change of timings entries in the permit of the petitioners vehicle based on the records available in the Regional Transport Office, Mettupalayam.

XIII The petitioner has produced only Xerox copy of the proceeding issued by the Secretary, Regional Transport Authority, Coimbatore (North) in R.NO.92471/A3/1995 dated 05.12.1995 which is without date and signature of the secretary, Regional Transport Authority, Coimbatore (North). Also the original connected file as also not received from Regional Transport Office, Coimbatore (North) to verify genuineness of timings and consequential Change of timings approved by the Secretary, Regional Transport Authority, Coimbatore (North).

8. Heard learned counsel for the petitioner and learned counsel appearing on behalf of the respondent .



9. The learned counsel for the petitioner submitted that the stand taken by the 1st respondent is totally unsustainable. The learned counsel submitted that the copy of the relevant records pertaining to the proceedings dated 05.12.1995, is available with the petitioner along with the seal and a copy of the same has also been produced before the 1st respondent. The learned counsel further brought to the notice of this Court the communication made by the Regional Transport Officer, Coimbatore (North) to the 1st respondent dated 16.07.2019, informing the respondent that the history sheet with regard to the stage carriage vehicle belonging to the petitioner is maintained in the 1st respondent office and based on the records, a decision can be taken. The learned counsel submitted that the 1st respondent did not even act on the communication that was sent by the RTO, Coimbatore (North). The learned counsel therefore, submitted that even now the petitioner is willing to submit the entire documents before the 1st respondent and a direction may be issued to the 1st respondent to consider the same and take a decision.

10. The learned Government counsel appearing on behalf of the 1st respondent submitted that there is a long lapse of time of nearly 24 years, after which the petitioner has made an application for making consequential change of timings in his bus permit. The learned counsel submitted that the original records pertaining to the proceedings dated 05.12.1995 is not available and therefore, the respondent is not in a position to act upon the request made by the petitioner. The learned counsel submitted that the representation made by the petitioner can be considered only if the original file is traced and the claim made by the petitioner regarding the consequential change in timings is properly verified.

11 . In the considered view in this Court, there is no dispute with regard to the fact that the petitioner was a stage carriage operator and he had a permit to ply his vehicle in Coimbatore - Sathyamangalam route. It is also not in dispute that by virtue of the proceedings dated 05.12.1995, the original timings that were allotted to the petitioner was changed and the consequential timings were given to the petitioner. However, this was not properly endorsed in the permit. Therefore, the petitioner has approached the 1st respondent seeking for endorsement of the consequential timings in the permit. It seems that the impleaded 2nd respondent was also operating a stage carriage and consequential timings were also given to the impleaded second respondent in the same proceedings dated 05.12.1995.

12. In view of the same, there shall be a direction to the petitioner to make a fresh representation to the 1st respondent



along with all the relevant documents and also a copy of this order. The 1st respondent shall deal with the representation on its own merits and strictly in accordance with law after affording an opportunity to the impleaded 2nd respondent. A decision shall be taken and necessary orders shall be passed by the 1st respondent, within a period of 6 weeks from the date of receipt of the copy of this order.

13. This writ petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rka/sha

To

The Regional Transport Officer,
Mettupalayam,
Coimbatore District.

+1cc to Mr.M.Palani, Advocate, S.R.No.48458

+1cc to the Government Pleader, S.R.No.49057

WRIT PETITION NO.27080 OF 2019

SR-II(CO)

PBS/06/10/2021