



W.P.(MD)No.21483 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.21483 of 2023
and W.M.P.(MD)Nos.17875, 23587, 21456 and 23588 of 2023

S.Indira

... Petitioner

versus

1. The Regional Transport Authority Cum
District Collector,
Dindigul District,
Dindigul.
2. The Regional Transport Officer,
O/o. The Regional Transport Office,
Dindigul.
3. The Branch Manager,
Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Palani Branch,
Dindigul District.
4. The Branch Manager,
Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Ottanchathiram Branch,
Dindigul District.



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5. P.Jothi

6. The Regional Transport Officer,
Palani,
Dindigul District.

7. The Inspector of Police,
Palani Police Station,
Palani,
Dindigul District.

8. The Inspector of Police,
Ottanchathiram Police Station,
Ottanchathiram,
Dindigul District.

(R6 to R8 are impleaded vide
order dated 27.09.2023 in W.M.P.(MD)No.
19829 of 2023)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 1st respondent vide his proceedings in R.No.A3/36947/03, dated 13.07.2005 and quash the same as illegal and consequently, direct the respondents 1 and 2 to permit the petitioner to operate her Stage Carriage bearing Registration No.TN57 AW 5168 in Palani Bus Stand departure time at 7.45 a.m. to reach Ottanchathiram Bus Stand at 8.45 A.M. and in Ottanchathiram Bus Stand departure time at 9.15



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A.M. to reach Palani Bus Stand at 10.20 A.M. as per the Revised Timing schedule of the 2nd respondent in the year of 1986 within the time frame as fixed by this Court.

For Petitioner : Mr.A.C.Asaithambi

For R1, R2 and
R6 : Mr.P.T.Thiraviam,
Government Advocate

For R3 and R4 : Mr.S.C.Herold Singh

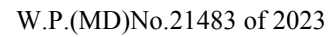
For R5 : Mr.Ajmal Khan,
Senior Counsel
for Mr.Mohammed Imran

For R7 and R8 : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)

ORDER

The petitioner is a Stage Carriage Operator in Dindigul District operating Stage Carriage bearing Registration No.TN57 AW 5168 plying on the route from Ottanchathiram Bus Stand to Palani Bus Stand.

2. The petitioner has filed this writ petition challenging the order dated 13.07.2005 passed by the first respondent fixing the time for the



3. The learned counsel appearing for the petitioner submits that the respondent, another Stage Carriage Operator, was playing her Stage Carriage bearing Reg.No.TN67AB 2552, on the route from Palanichattram to Manjanaickenpatti via Palani and for operating the 5th respondent's bus, time schedule at Palani Bus Stand was fixed at 7.50 a.m. and the petitioner was operating their bus at 7.50 a.m., as per the revised time schedule in the year 2005. He further submits that the respondent, who got the transfer of permit, is operating their bus at 7.50 a.m. from Palani Bus Stand on the schedule of timings fixed for operating the petitioner's bus and therefore, no passengers were



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boarding in the petitioner's bus. Hence, the petitioner is before this Court.

4. The learned Senior Counsel appearing for the 5th respondent submits that the petitioner is having an appeal remedy under Section 89 of the Tamil Nadu Motor Vehicles Act 1988 read with Rule 157(b) of the Tamil Nadu Motor Vehicle Rules 1989. Without filing the appeal, the petitioner cannot maintain this writ petition after the lapse of 18 years. In support of his contention, the learned Senior Counsel relied on the Judgment of the Hon'ble Supreme Court in ***New Delhi Municipal Council vs. Pan Singh and others***, reported in (2007) 9 ***SCC 278***, wherein, the Hon'ble Supreme Court has held as follows:

“There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the



Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the Writ Petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the Court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction. (See Govt. of W.B. v. Tarun K.Roy, [2004 1 SCC 347], U.P. Jal Nigam vs. Jaswant Singh [2006 (12) SCALE 347] and Karnataka Power Corpn. Ltd. v. K. Thangappan (2006) 4 SCC 322]).

17. Although, there is no period of limitation provided for filing a Writ Petition under Article 226 of the Constitution of India, ordinarily, Writ Petition should be filed within a reasonable time. (See Lipton India Ltd. v. Union of India [(1994) 6 SCC 524], M.R.Gupta vs. Union of India, [(1995) 5 SCC 628].

18. In Shiv Dass v. Union of India [2007 (2) Scale 325], this Court held: (SCC p.277, paras 9-10)

"9. It has been pointed out by this Court in a number of cases that representations



would not be adequate explanation to take care of delay. This was first stated in K.V. Raja Lakshmiah v. State of Mysore (AIR 1967 SC 993). There is a limit to the time which can be considered reasonable for making representations and if the Government had turned down one representation the making of another representation on similar lines will not explain the delay. In State of Orissa v. Pyarimohan Samantaray (AIR 1976 SC 2617) making of repeated representations was not regarded as satisfactory explanation of the delay. In that case the petition had been dismissed for delay alone. (See also State of Orissa v. Arun Kumar Patnaik (AIR 1976 SC 1639).

10. In the case of pension the cause of action actually continues from month to month. That, however, cannot be a ground to overlook delay in filing the petition. It would depend upon the fact of each case. If petition is filed beyond a reasonable period say three years normally the Court would reject the same or



restrict the relief which could be granted to a reasonable period of about three years. The High Court did not examine whether on merit appellant had a case. If on merits it would have found that there was no scope for interference, it would have dismissed the writ petition on that score alone."

19. We, therefore, are of the opinion that it was not a fit case where the High Court should have exercised its discretionary jurisdiction in favour of the respondents herein."

5. The learned Senior Counsel has also relied on the Judgment passed by the Division Bench of the Principal Seat in similar matter in W.A.No.1673 of 2022, dated 16.08.2022, wherein the Division Bench has observed as follows:

"5. The Writ Petition, as per the amended prayer, is not at all maintainable because the order is appealable to the Tribunal under Section 89 of the Act. In this regard, the law is no longer res integra and it has been specifically held by an earlier bench of this Court



in Tamil Nadu State Transport Corporation (Villupuram Division II) Limited Vs. C.Durai1 and it is useful to extract the relevant paragraphs which are as follows:-

“5. In U.P. State Bridge Corporation Ltd. v. U.P. Rajya Setu Nigam Karmchhari Sangh, (1998) 4 SCC 268, the Supreme Court held that if there is a specific remedy available under a statute a writ petition should not be entertained.

6. In the present case, there is an alternative efficacious remedy under Section 89/90 of the Motor Vehicles Act, 1988. In our opinion, the State Transport Appellate Tribunal has inherent power of granting stay during the pendency of proceedings under Section 89/90 of the Act in an appropriate case.

7. Hence, the writ petition should not at all have been entertained by the learned single Judge and should have been straight away dismissed on the ground of alternative remedy.

. . . .

10. In our opinion, no writ petition should ordinarily be entertained, when there is



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an alternative remedy, except in very rare cases if there is some compelling reason. In the present case, we are of the opinion that the learned single Judge was not justified in entertaining the writ petition at all and should have dismissed it on the ground of alternative remedy. The impugned order is set aside. The writ petition is dismissed.”

In the present case, absolutely, no reason whatsoever has been stated or considered by the learned Judge to entertain the Writ Petition and consider the same on merits.”

6. In view of the above decisions, this writ petition is dismissed.

However, the petitioner is at liberty to approach the Regional Transport Officer, Palani, for revision of timings in operating their bus. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.

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B.PUGALENDHI, J.

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