(1989) 12 MAD CK 0017

In the Madras High Court

Case No : W.A. No. 1056 of 1989

K.M.M. Mohamed Yousuf APPELLANT

Vs

Thunaivan Bus Service (Firm) and another RESPONDENT

Date of Decision : 07-12-1989

Acts Referred:

Motor Vehicles Act, 1939 — Section 57
Tamil Nadu Motor Vehicles Rules, 1940 — Rule 153

Citation : AIR 1990 Mad 318 : (1990) 1 LW 501

Hon'ble Judges : Sathiadev, J;Padmini Jesudurai, J

Bench : Division Bench

Advocate : Mr. Natesan, for the Appellant;

Judgement

Sathiadev, J.—The point involved in the appeal revolves round the interpretation of Rule 153-B(ii) of the Tamil Nadu Motor Vehicles Rules.

The appellant made an application for the grant of a stage carriage permit under the Motor Vehicles Act, on a notification issued under S. 57(2) of

the Act. fixing the last date lor receipt of applications up to 5.00 P.M. on 29-2-1980. The appellant made an application, but he had not paid the

challan fees oi Rs. 750 - by that date. Therefore, in compliance with Rule 153-B(ii), in the notification made under S. 57(3) of the Act, it was

disclosed that he has to submit the treasury receipt about payment of the prescribed fee by 27-3-1980. It was on that date he paid the ices and

produced the treasury receipt. Both the appellate authority and the learned Judge held that non-payment of the fee by the last date fixed as 29-2-

1980, had disentitled the appellant to secure the permit,

2. Learned Counsel for the appellant Mr. Natesan submits that, when an opportunity had been conceived under the rule to produce the treasury

receipt when a notification is made under S. 57(3): it in turn, enables the payment of fee beyond the date fixed under S. 57(2) of the Act. He tries

to derive strength from the decision in N. Pappu Reddiar and Others Vs. The Regional Transport Authority, Salem and Others, , for this

proposition. But, on a reading of S.57(2) and 57(3): it results in a firm date being fixed for receipt of the applications with prescribed fee; and

thereafter what have paid the fees by the last date: to produce the treasury receipt by the date fixed under S. 57(3) notification.

3. This rule had been framed, being conscious of the fact that even though the fee could be paid into the treasury by the last date fixed under S.

57(2) notification; it would be quite often difficult for the concerned parties to secure the treasury receipt immediately for being lodged by the last

date already fixed. Hence, in such of those circumstances wherein the treasury receipt was not made ready for ever so many administrative

reasons; even-though the fee had been paid by the date already fixed u/s 57(2); under Rule 153-B(ii) of the Tamil Nadu Motor Vehicles Rules, an

enabling provision is made for the production of the treasury receipt subsequently received, for the payment already made well within time.

Therefore, this rule cannot be relied upon to claim that a further time could be granted beyond upon to claim that a further time could be granted

beyond the last date already fixed under S. 57(2) notification. The relevant expression is to the following effect in the said rule :

Where an application for the grant of..... a stage carriage permit ..... made in the prescribed form, but not accompanied by the prescribed fee,

shall not he rejected on that account, but the omission shall be specifically pointed out in the publication of the application to be made under sub-

sec. (3) of S. 57 of the Act so that the applicant may have an opportunity of submitting a treasury receipt for the prescribed fee on or before the

date for the receipt of representation specified in the publication, failing which the application will stand rejected.

Hence, the rule does not contemplate as opportunity of paying the fees beyond the time already fixed; but only extends the time to submit the

treasury receipt for payment made well within time.

4. Yet another contention is that, the authority is estopped by taking a different stand in spite of the notification under S. 57(3). The representation

made is not different from what had been contemplated under the rule. Hence, there is no scope to claim the doctrine of equitable estoppel in a

matter of this nature. Therefore, this appeal is dismissed.

5. Appeal dismissed.

