

(2016) 01 KAR CK 0056
In the Karnataka High Court
Case No : Writ Petition No. 35043/2015 (MV)

K.N. Venzugopal

APPELLANT

Vs

The Regional Transport Authority and Others

RESPONDENT

Date of Decision : 05-01-2016

Acts Referred:

Citation : (2016) 01 KAR CK 0056

Hon'ble Judges : A.S. Bopanna, J.

Bench : Single Bench

Advocate : A.S. Parasana Kumar, Advocate, for the Appellant; T.S. Mahantesh, AGA, for the Respondent

Final Decision : Disposed off

Judgement

A.S. Bopanna, J.—1. The petitioner is before this Court assailing the order dated 08.08.2012 insofar as it relates to Condition No. 6 in Subject No. 26/12-13. The petitioner in that light has assailed the order dated 18.05.2015 passed in Appeal No. 267/2013. The petitioner alternatively has also sought for 30 days time to produce the vehicle documents and to obtain the endorsement of replacement in Permit No. 30/97-98.

2. The petitioner possess a Stage Carriage Permit in No. 30/97-98 which was valid upto 10.09.2012 to operate in the route between Vijayanagar to Hosanagar and back. The petitioner sought renewal of the application which was considered by the first respondent in Subject No. 26/12-13 in the proceedings held on 08.08.2012 and the renewal was granted for a period of five years. While granting such renewal in the order dated 08.08.2012, the Condition No. 6 was imposed whereby the petitioner was required to pay the fee of Rs. 100/- obtain challan and get the endorsement be made in the vehicle documents within 30 days from the date of the order.

3. Though the petitioner has assailed the said Condition No. 6 in the appeal filed before the KSTAT as well as in the instant petition, the contentions urged in the

petition essentially is to the effect that though the petitioner has no grievance with regard to the condition imposed, but the petitioner was unaware of the same since the order had not been communicated to the petitioner and in that light, the compliance within 30 days as indicated therein had not been complied with by the petitioner. Apart from that aspect of the matter, what had also arisen for consideration during the said period was that the petitioner desired that the existing Vehicle No. KA 20/B/02-09 be released from the Stage Carriage Permit No. 30/97-98 since the petitioner desired that a different vehicle be replaced in the interest of the passengers travelling in the said vehicle. The said proceedings resulted in an Appeal in No. 1328/2012 before the KSTAT. The order which had been impugned therein whereby the leave sought by the petitioner to release the existing vehicle which had been refused by the authorities had been set aside and the KSTAT had permitted the petitioner to replace the vehicle within 90 days from the date of release of the existing vehicle and issued an endorsement of replacement.

4. In that background, apart from replacing the vehicle, the endorsement relating to the vehicle based on the renewal of the permit made was also an issue which required consideration. The authorities however did not permit the petitioner to obtain the endorsement beyond the period of 30 days that had been indicated in the order dated 08.08.2012 since according to the respondents, the renewal of the permit which had been granted thereby had automatically lapsed. The petitioner therefore claiming to be aggrieved was before the KSTAT in Appeal No. 267/2013. The KSTAT while rejecting the appeal has held that the contention of the petitioner that he was not aware of the condition imposed in the said order and therefore could not comply within the time frame cannot be accepted since the Tribunal had noticed that if that was the position, this aspect of the matter could have been brought to the notice of the Tribunal when the earlier appeal relating to the replacement of the vehicle was under consideration.

5. Though such reason has been assigned by the Tribunal, what is material to be considered in the instant petition is as to whether the case of the petitioner that the order dated 08.08.2012 whereby the time period had been fixed for compliance through Condition No. 6 was within the knowledge of the petitioner?

6. In order to assert that the petitioner had knowledge of that order only on 22.01.2013, an affidavit had been filed before the KSTAT. There is no other material to controvert the assertion of the petitioner that he had knowledge of the renewal granted only on 22.01.2013. If that be the position, the observation as made by the KSTAT in the order dated 18.05.2015 in Appeal No. 267/2013 that the said position could have been brought to the notice of the KSTAT in the earlier appeal would not stand to reason since the said appeal had been disposed of on 11.09.2012 before the petitioner had knowledge of the condition that had been imposed by the order dated 08.08.2012.

7. Therefore, if these aspects of the matter are taken into consideration and as already noticed, since the attempt of the petitioner is not to challenge the

Condition No. 6 which had been imposed, but is only seeking accommodation to comply with the said condition, the time if permitted in any event would not be prejudicial to any other person nor to the respondents. Though the learned counsel for the petitioner has relied on the order dated 20.11.1995 in W.P. No. 26938/1995 to contend that the grant of permit would not automatically lapse unless the grant as made is withdrawn by issuing notice, the same need not be adverted to at this juncture since all that is required is to direct the petitioner at this stage to comply with Condition No. 6 contained in the order dated 08.08.2012 and obtain the endorsement as indicated therein in respect of the vehicle to be replaced in respect of Permit No. 30/97-98 renewed subsequently.

8. In that view, the order dated 18.05.2015 passed in Appeal No. 267/2013 is set aside. A direction is issued to the second respondent to permit the petitioner to comply with Condition No. 6 contained in the order dated 08.08.2012 within 30 days from the date of receipt of a copy of this order. On such compliance, the endorsement as required and the renewal granted under the order dated 08.08.2012 shall remain in force.

The petition is accordingly disposed of.