(2012) 09 MAD CK 0114

In the Madras High Court

Case No : Writ Petition No. 23812 of 2012

M.A. Ayaz — APPELLANT

Vs

State Transport Appellate Tribunal and Another — RESPONDENT

Date of Decision : 28-09-2012

Acts Referred:
Motor Vehicles Act, 1988 — Section 86(1)

Citation : (2013) 28 MLJ 498

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : S. Rajendrakumar, for the Appellant; P.S. Sivashanmugasundaram, Additional Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

M. Jaichandren, J.—Heard the learned counsel appearing for the petitioner, as well as the learned Additional Government Pleader appearing for the second respondent. The writ petition has been filed by the petitioner challenging the order of the first respondent Tribunal confirming the order of cancellation of permit passed by the Regional Transport Authority, the second respondent herein, in respect of the Tata Maxicab, bearing registration No. TN-22-BW-9828.

2. It has been stated that the Tata Maxicab permit had been issued by the second respondent, in respect of the vehicle bearing registration No. TN-22-BW-9828, belonging to the petitioner. While so, due to the financial strain suffered by the petitioner, due to his ill health, he could not pay the quarterly motor vehicle tax, for the period, from 1.4.2011 to 30.6.2011. However, he had paid the tax amounting to Rs. 5,775/-, along with a sum of Rs. 1,925/-, as fine, belatedly, on 22.12.2011. However, the permit issued to the petitioner had been cancelled, on 30.6.2011, for the non-payment of the tax. The second respondent, instead of canceling the permit, could have merely imposed the penalty on the petitioner, as per the provisions of the Motor Vehicles Act, 1988. The non-payment of the tax by the petitioner is neither willful nor wanton but

due to his illness and the financial strain caused due to such illness.

3. The learned counsel appearing for the petitioner had submitted that the second respondent ought to have invoked Section 286(5) of the Motor Vehicles Act, 1988. He had further submitted that the second respondent ought to have noted that the tax, due to be paid by the petitioner, had been paid, along with the penalty. In fact, the petitioner had not defaulted in the payment of tax on the earlier occasions. The non-payment of the tax, by the petitioner, is neither willful nor wanton.

4. The learned counsel appearing for the petitioner had further submitted that no notice had been issued to the petitioner before the cancellation of the permit.

5. The learned counsel appearing for the petitioner had further submitted that the appeal filed by the petitioner challenging the order of the second respondent, dated 12.8.2011, had been dismissed by the first respondent Tribunal, by its order, dated 28.5.2012, confirming the order of the second respondent, cancelling the permit granted in favour of the petitioner.

6. No counter affidavit has been filed on behalf of the respondents. However, the learned Additional Government Pleader appearing for the respondents had submitted that the impugned order of the second respondent, dated 12.8.2011, cancelling the permit granted in favour of the petitioner and the order of the first respondent Tribunal, dated 28.5.2012, confirming the said order, had been passed, as per the provisions of the Tamil Nadu Motor Vehicles Act, 1988. The petitioner had paid the tax only after the permit had been cancelled, on 30.6.2011. As per Rule 172(1) of the Tamil Nadu Motor Vehicles Rules, 1989, every transport vehicle, which is covered under a permit, could be used on a public road, only after the payment of tax, as per the provisions of the Tamil Nadu Motor Vehicles Taxation Act, 1974. Failure to comply with the said conditions would result in action being taken by the authorities concerned, u/s 86(1) of the Motor Vehicles Act, 1988. As such, the second respondent had rightly cancelled the permit granted in favour of the petitioner, by his order, dated 12.8.2011. Since, the petitioner has not shown sufficient cause for the non-payment of the tax, due from him, within the time limit prescribed, the first respondent Tribunal had confirmed the order of the second respondent, dated 12.8.2011, by its order, dated 28.5.2012. Therefore, the writ petition filed by the petitioner is devoid of merits.

7. In view of the submissions made by the learned counsels appearing for the petitioner, as well as the respondents, and on a perusal of the records available, it is noted that the petitioner had failed to pay the motor vehicles tax, payable by him, for the period from 1.4.2011 to 30.6.2011, due to his illness, as per law. The non-payment of the tax was due to his ill-health and due to the consequential financial strain suffered by him. However, the petitioner had paid the tax, due from him, along with the fine, belatedly. However, the second respondent had cancelled the permit granted in favour of the petitioner, without

considering the reasons stated by the petitioner, by his order, dated 12.8.2011. The appeal filed by the petitioner challenging the said order had been dismissed by the first respondent, by its order, dated 28.5.2012, confirming the order of the second respondent. Further, the learned Additional Government Pleader appearing for the respondents had not been in a position to show that a prior notice had been served on the petitioner before the permit issued in favour of the petitioner had been cancelled. In such circumstances, the impugned order of the second respondent, dated 12.8.2011, cancelling the permit granted in favour of the petitioner and the order of the first respondent Tribunal, dated 28.5.2012, confirming the said order are set aside, as prayed for by the petitioner. Accordingly, the writ petition stands allowed. No costs. Connected M.P. No. 1 of 2012 is closed.