

(2012) 10 KL CK 0074

In the High Court Of Kerala

Case No : Writ Petition (C) No. 24332 of 2010 (N)

P.S. Abdul Rasheed Pokkakkilath House, Rahath Manzil,
Ovungal Bazar, Chavakkad

APPELLANT

Vs

The Regional Transport Authority and The Secretary, Regional
Transport Authority

RESPONDENT

Date of Decision : 16-10-2012

Acts Referred:

Motor Vehicles Act, 1988 — Section 81

Citation : (2012) 10 KL CK 0074

Hon'ble Judges : Harun-UI-Rashid, J

Bench : Single Bench

Advocate : K.V. Gopinathan Nair and Smt. G. Chitra, for the Appellant; P.P. Padmalayam, Government Pleader, for the Respondent

Judgement

Justice Harun-UI-Rashid

1. The writ petition is filed to quash Exts.P4 and P7 and for a direction directing the first respondent to consider Ext.P5 renewal application submitted by the petitioner on the route Chavakkad-Pattambi treating Ext.P1 permit in existence and for other incidental reliefs. Petitioner is the holder of regular permit operating service on the route Chavakkad-Pattambi as per Ext.P1. The vehicle covered by the said regular permit is KL-10/G 3618. The said permit was issued on 19.8.1999 and was subsequently renewed and valid up to 18.8.2009. Due to the circumstances narrated in the writ petition, the petitioner committed default of service and submitted intimation regarding the non-use of the vehicle from 1.7.2007. Petitioner also made arrangements to maintain service by applying for substitute temporary permit. The Secretary, RTA issued Ext.P2 notice directing to show cause why the permit of the vehicle should not be cancelled/suspended for the failure to use the vehicle. Ext.P3 is the copy of the explanation. Ext.P2 is the copy of the notice. The first respondent there upon passed Ext.P4 order stating that if the service is not resumed within one month permit is automatically

cancelled. The said order was confirmed by the State Transport Appellate Tribunal by passing Ext.P7 order. Exts.P4 and P7 orders are under challenge.

2. While appeal was pending, regular permit was due to expire and therefore, the petitioner filed application for renewal of the permit u/s 81 of the Motor Vehicles Act. Ext.P5 is the application submitted on 9.7.2009. The said application has been accepted by the first respondent and the first respondent sought concurrence from the RTA for the renewal of permit. Ext.P6 is the copy of the proceedings issued by the first respondent. The renewal application is still pending. In the meantime, petitioner procured a later model vehicle KL-13/F 6179. Ext.P8 is the copy of the registration certificate issued to the new model vehicle. Petitioner was allowed to conduct service on the route with the new model vehicle from 27.8.2010. Ext.P13 is the copy of the permit. Petitioner is operating on the route as per Ext.P14.

In the above said facts and circumstance, Exts.P4 & P7 orders are set aside. Regional Transport Authority/first respondent is directed to consider Ext.P5 renewal application in the light of Exts.P6, P13 and P14 within a period of two months after affording an opportunity of being heard to the petitioner.

The writ petition is disposed of as above.