

IN THE STATE TRANSPORT APPELLATE TRIBUNAL
ERNAKULAM

Present:-Dr.Kauser Edappagath, LL.M., Ph.D, State Transport Appellate Tribunal

Thursday, the 27th day of June, 2019/6th Ashadha, 1941

M.V.A.R.P No.1/2019

Petitioner:-

Merina K. Aby, Karimalathu House, Kumbanadu P.O., Malappilly.

By Adv.P. Deepak

Respondents:-

1. The Regional Transport Authority, Pathanamthitta.
 2. The Secretary, Regional Transport Authority, Pathanamthitta.
 3. Murukesan, Puthuparambu, Kottamury P.O., Changanacherry, Kottayam.
- Addl. R4. Shibu Abraham, Puthenpurackal, Thrikkodithanam, Changanacherry.

(Addl. R4 impleaded as per order in MP No.15/2019 dated 08.01.2019)

R1 & R2 rep. by Standing Counsel Adv.Seena Ramakrishnan

R3 by Adv.Sajeevkumar K. Gopal

Addl. R4 by Adv.Stalin P. Davis

This revision petition filed under Section 90 of the Motor Vehicles Act, praying this Hon'ble Tribunal may be pleased to allow the revision petition, set aside the impugned order and permit the petitioner to continue to operate the service with Ext.P3 timings.

This petition come up for hearing before me on 15.06.2019 and the Tribunal on 27.06.2019 passed the following:-

ORDER

This is a revision petition filed under Section 90 of the M.V.Act against the order of the 2nd respondent dated 12.12.2018.

2. The revision petitioner is a regular stage carriage operator operating in intra district route Kozhencherry – Changanacherry on the strength of the permit which has been marked as Ext.P2 with the time schedule approved by the 2nd respondent vide proceedings dated 17.01.2017. The true copy of the time schedule has been marked as Ext.P3. According to the revision petitioner, the permit originally stood in the name of the 3rd respondent and was being operated with stage carriage bearing Regn.No.KL-28/5671 and in March 2017, the permit was transferred by the 3rd respondent to one Suni Philip who replaced the stage carriage bearing Regn.No.KL-28/5671 by the stage carriage bearing Regn.No.KL-05/S 180. It is alleged in the revision petition that in October 2018, the permit and the vehicle covered by the same, namely, KL-05/S 180, was transferred to the name of the petitioner. In the meanwhile, the impugned order was passed by the 2nd respondent whereby the revision petitioner was allotted a totally different time schedule for operation of her service. According to the 2nd respondent, it was revealed on subsequent enquiries that there occurred a typing mistake while issuing Ext.P3 proceedings and the impugned order has been rendered to rectify the said mistake. Challenging the said order, this revision has been preferred.

3. Heard both sides. Perused the records.

4. It is evident from the impugned order that the time schedule appended to Ext.P3 has been completely revised. However, before making such a revision, the revision petitioner was not heard. According to the revision petitioner, it is not a case of typing mistake as claimed in the impugned order. On the contrary, Ext.P3 timings have drastically reviewed. The revision petitioner has a specific case that the 3rd respondent, the original permit holder, ceased to have any right or interest in the permit in question and the vehicle covered by the permit from February 2017 onwards was transferred to in the name of Suni Philip. The said aspect was not considered while passing the impugned order. For all these reasons, I am of the view that the impugned order is not sustainable and is liable to be set aside.

In the result, the revision petition is allowed. The impugned order is set aside. The 2nd respondent is directed to reconsider the matter after hearing both sides and pass orders in accordance with law within two months from the date of receipt of copy of this order after hearing all the parties concerned.

Dictated to the Confdl. Asst., transcribed and typed by her, corrected by me and pronounced in Open Tribunal on this the 27th day of June, 2019.

Dr. KAUSER EDAPPAGATH
State Transport Appellate Tribunal

M.V.A.R.P No.1/2019
Order dated:27.06.2019