

Kerala High Court

U.Manoharan vs The Regional Transport Authority on 20 August, 2009

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WA.No. 1012 of 2008()

1. U.MANOCHARAN, URALATH HOUSE,  
... Petitioner

Vs

1. THE REGIONAL TRANSPORT AUTHORITY,  
... Respondent

2. THE SECRETARY, RTA, MALAPPURAM.

For Petitioner :SRI.ANIL SIVARAMAN

For Respondent : No Appearance

The Hon'ble MR. Justice K.BALAKRISHNAN NAIR

The Hon'ble MR. Justice P.S.GOPINATHAN

Dated :20/08/2009

O R D E R

K. BALAKRISHNAN NAIR & P.S. GOPINATHAN, JJ.

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W.A. No.1012 of 2008  
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Dated this, the 20th day of August, 2009

JUDGMENT

Balakrishnan Nair, J.

The appellant was the writ petitioner. He was having a regular permit on the route Chaliyam - Kozhikode. Since the validity of the permit was going to expire on 5.3.2005, he applied for its renewal on 15.2.2005. The consideration of the application for renewal was delayed for want of

concurrence from the sister R.T.A., Kozhikode. The primary R.T.A. was R.T.A., Malappuram. So, he was operating on the basis of temporary permit obtained under Section 87(1)(d) of the Motor Vehicles Act. In 2006, the vehicle attained the age of 15 years. So, he could not operate thereafter, on the route. Later, he submitted an application on 5.6.2007 for replacement of the old vehicle by a new vehicle. The said application was adjourned by Ext.P4. Therefore, he approached this court by filing a writ petition. This Court, by Ext.P5 judgment [W.P.(C) W.A. No.1012 of 2008:

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No.33621/07], directed the R.T.A., Malappuram to consider his application for renewal of the permit and also the application for replacement of the old vehicle by a new vehicle. Pursuant to the said direction, the R.T.A. considered the applications and rejected both the applications by Ext.P6 order. The present writ petition was filed challenging the said order.

2. The learned Single Judge relying on the decision of the Division Bench in Rashinlal v. R.T.A. Kottayam, 2004 (1) KLT 1091, dismissed the writ petition. Hence this appeal.

3. The learned counsel for the appellant submitted that, the decision relied on by the learned Single Judge has no application to the facts of the present case. At the time of the admission of the appeal, the Division Bench passed an interim order directing the R.T.A. to grant renewal of the permit as also replacement of the old vehicle. In obedience to the said direction, permit was granted and he is now operating. The learned Government Pleader submitted that Section 83 of the W.A. No.1012 of 2008:

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M.V. Act governs replacement of the vehicle, which provides that only an existing permit holder can apply for replacement. In this case, it is pointed out that, as the appellant is no longer a permit holder after 2006, his application for replacement is not maintainable. Since the application for replacement was filed on 5.6.2007, the R.T.A. could have rejected it, on the ground of non-existence of permit or kept it pending till the renewal is decided, it is submitted.

4. Section 83 of the Act reads as follows:

"83. Replacement of vehicles.- The holder of a permit may, with the permission of the authority by which the permit was granted, replace any vehicle covered by the permit by any other vehicle of the same nature."

We agree with the learned Government Pleader that only an existing permit holder can maintain an application for replacement of the vehicle. But, the existence of a vehicle is not a condition precedent, for maintaining an application for permit. We think, the said principle can be extended for W.A. No.1012 of 2008:

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renewal of permit also. In view of the above position, we quash Ext.P6 and direct the Regional Transport Authority, Malappuram to consider the application of the appellant for renewal of the permit in accordance with law, within two months from the date of production of a copy of this judgment. After renewal of the permit, his application for replacement of the vehicle should be considered and disposed of within one month thereafter. Till such time, the appellant can operate the service with the vehicle for which he obtained permit on the strength of the interim order passed by this Court on 28.5.2008, provided he is otherwise eligible.

The Writ Appeal is disposed of as above.

Sd/-

K. Balakrishnan Nair, Judge.

Sd/-

P.S. Gopinathan, Judge.

DK.

(True copy)