

**DECISION OF REGIONAL TRANSPORT AUTHORITY MUVATTUPUZHA
HELD ON 02-08-2018**

**Present:(1)Sri.Mohammed Y Safirulla. I.A.S.-District Collector & Chairman
RTA Muvattupuzha.
(2)Sri. Shaji Joseph-Deputy Transport Commissioner-CZ-II,
Ernakulam &Member RTA Muvattupuzha.**

Item No-1

Heard ,the representative of KSRTC . This is an application filed for fresh regular permit in respect of stage carriage KL-15 -9209 to operate on the route Kothamangalam-Ernakulam-Vadattupara- Kuttampuzha and Paigottoor (Via) Perumbavoor, Aluva, Pothanikkad and Keerampara as ordinary service. This is an intra district route having route length of 72 km. The applicant is STU and the offered vehicle complies the condition of age of vehicle preferred by this authority for granting fresh regular permit. Hence regular permit is granted to KL-15 -9168 on the applied route with proposed set of timings.

Item No-2

Heard the learned counsel represented the applicant Sri A J Priyadarsan. This is an application is for fresh intra district regular permit in respect of a new or suitable vehicle with seating capacity not less than 38 in all to operate on the route Avolichal-Kothamangalam-Perumbavoor touching Perumannoor, Uppukulam and Valiyapara as ordinary moffusil service . There is nothing mentioned in the application about the details of a suitable vehicle having an age of not more than 8 years , as preferred by this authority for the grant a regular permit. Hence the application is rejected , without considering the merits and de merits .

Item No-3

Perused the judgment of hon'ble High Court in WP(c) 20369 of 2016 and heard the learned Counsel represented the applicant Sri. Balakrishnan Elayidam . This is an application for the grant of fresh regular permit in of S/c KL 04 N 3443 or suitable stage carriage with seating capacity not less than 33 in all to operate on the route Perumabavoor- Uppukulam - Perumannoor (Via) Pattal, Odakali, Kothamangalam, Kuthukuzhy, Oonnukal, Chelad, Oonjapara and Nedukani as ordinary moffusil service . This authority considered the matter in detail. The proposed route is an intra district route having route length of 48 km and there is an overlapping of 300 metre from Perumbavoor bus stand to Kalady jn at Perumbavoor.

This authority in the meeting held on 22/12/2015 adjourned the application for want of a modified proposal from the applicant but vide judgment in WP(c) 20369 of 2016 the hon'ble High Court directed the RTA Muvattupuzha to consider the regular permit application in accordance with law irrespective of the modification suggested by the respondent.

It is reported that temporary permits on the above route had been issued in the light of various judgments and field reports of MVIs , with settled set of timings and the last TP thus issued will expire on 30/07/2018.

Hence regular permit on the proposed route is granted to a stage carriage not older than eight years subject to the production of current records of the vehicle within the time limit specified U/R 159[2] KMVR-1989 with the already settled set of timings.

Item No-4

A) This is an application for renewal of regular permit in respect of stage Carriage KL 35 C 7341 operating on the route Kanjirappally- Ernakulam (Via) Erattupetta, Muttam, Thodupuzha, Muvattupuzha, Pattimattom, Kizhakkambalam, Pallikkara, Kakkanad and Palarivattam as LSOS. This authority elaborately considered the scope and applicability of the renewal of permit in the light of existing notifications and connected file. This is an inter district route with route length 109 km and comes under the purview of general concurrence. The regular permit was issued prior to 14/07/2009. Hence renewal of regular permit granted to Stage Carriage KL 35 C 7431 to operate on the route Kanjirappally- Ernakulam as LSOS, subject to the conditions stipulated in the Clause[4] of notification No-08/2017/Tran dtd 23/03/2017.

B) Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C C KL 35 C 7431 operating on the route Kanjirappally- Ernakulam. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-5

A) Heard the learned counsel represented the applicant Sri Anas T M. This is a request for condonation of delay for submitting the renewal of permit application in respect of S/C KL 03 S 34 operating on the route Vellaramkuthu- Kothamangalam- Pinavoorkudy as Ordinary moffusil service. This authority satisfied the explanation of the applicant and request allowed.

B) This is an application for renewal of regular permit in respect of stage Carriage KL 37 5004 operating on the route Vellaramkuthu- Kothamangalam- Pinavoorkudy as Ordinary moffusil service.

This authority elaborately considered the scope and applicability of the renewal of permit in the light of existing notifications and connected file. This is an intra district route with route length 39 km and the regular permit was issued prior to 14/07/2009.

Hence delay on submitting the renewal of permit application is condoned and renewal of regular permit granted to Stage Carriage KL 03 S 34 operating on the route Vellaramkuthu- Kothamangalam- Pinavoorkudy as ordinary moffusil service.

Item No-6

Heard the learned Counsel represented the applicant. This is an application for variation of regular permit in respect of stage carriage KL 06 D 5341 operating on the route Alattuchira- Perumbavoor- Ayavana SNDP Jn as Perumbavoor- Ayavana SNDP Jn by curtailing the route portion from Alattuchira to Perumbavoor as ordinary moffusil service.

In the proposed variation the applicant intend to change halting place to Perumbavoor instead of Alattuchira.

This authority considered the application in detail in the light of the report of route enquiry officer and existing Government notifications and reveals the following.

The regular permit is seen issued prior to 14/07/2009 and the route overlaps a distance of 9 km from Manoor to Perumbavoor with Kottayam- Kozhikode notified scheme published vide GO(P) No.42/2009/ Tran dtd 14/07/2009 which was further modified by GO(P) No.08/2017/Tran dtd 23/03/2017. As per Clause[4] of the modified scheme, the permits granted in the private sector as on 14/07/2009 are permitted to operate as Ordinary or Ordinary limited Stop Service as saved permits provided that further extension or variation shall not be allowed under any circumstance. This permit belongs to the classification of saved permit and can be continued as such without any modifications like extension or variation. If the proposed variation is allowed, it will be clear violation of Clause[4] of the notification No.08/2017/Tran dtd 23/03/2017. KSRTC strongly objected the proposed variation in the light of said notification.

Hence without considering the merits and de merits , the application for the variation of permit in respect of KL 06 D 5341 on the route Alattuchira- Perumbavoor- Ayavana SNDP Jn is hereby rejected.

Item No-7

Heard the learned Counsel represented the applicant. This is an application for variation of regular permit in respect of S/ C KL 17 A 1989 operating on the route Kadappara-Perumbavoor- Vyttila Hub as ordinary service. The permit is intend to be varied by deviating the route in the return trip from Vyttila (return of 1st trip) to Perumbavoor (Via) Kakkanad, Infopark, Edachira, Vayanasala Jn and Thevakkal instead of Navodaya Jn and Kangarappady. This authority considered the application in detail in the light of the report of route enquiry officer and existing Government notifications.

There is an existing overlapping of 1.5 km from Perumbavoor town to Palakkattuthazham with the Aluva-Kattappana notified scheme published vide GO(P) No.42/2009/ Tran dtd 14/07/2009 which was further modified by GO(P) No.08/2017/Tran dtd 23/03/2017. The said notification restricts further variations in existing permits .

But later the hon'ble High court vide judgment in WP(c) 4188 of 2018 directed Regional Transport Authorities to consider the variation or extension on an individual basis and in case there is no variation or extension is sought for on the notified routes. On the appeal filed by the STU against this judgment the hon'ble Division Bench of High court ordered to maintain status quo in this matter.

In the instant case there is curtailment of route from Kakkanad to Thevakkal (Via) Kangarappady. This authority feels that withdrawal of the trip will adversely affect the passengers and interest of the public is the main factor for the grant of a variation on existing regular permit.

The existing benefits enjoyed by the public shall not be deprived of consequent to the variation of the permit. Hence curtailment of existing trips cannot be allowed. Moreover there is no necessity under rule 145(6) warranting for the grant of proposed variation. Hence application for the variation of permit is hereby rejected.

Item No-8

Perused the Judgment of hon'ble STAT in MVAA No- 263/2017 dtd 17/05/2018 and heard the learned Counsel represented the applicant. This is an application for variation of regular permit in respect of S/C KL 04 P 3026 on the route Perumbavoor- Malayattoor Adivaram- Kalady.

The variation sought for includes deviation of route in the existing trip @ 11.23 from Perumbavoor to Kurichilakode (Via) Aimury, Koovapady intend to deviate (Via) Kuruppampady and Akanad and return to Perumbavoor and one additional trip from Adivaram to Kalady after 6.02 pm. This authority considered the application in detail in the light of the report of route enquiry officer and existing Government notifications.

In the proposed variation there is curtailment of route portion from Perumbavoor to Kurichilakode (Via) Aimury and Kurichilakode. This authority feels that withdrawal of the trip will adversely affect the passengers and interest of the public is the main factor for the grant of a variation on existing regular permit. The existing benefits enjoyed by the public shall not be deprived of consequent to the variation of the permit. Hence curtailment of existing trips cannot be allowed. Moreover there is no necessity under rule 145(6) warranting for the grant of proposed variation. Hence application for the variation of permit is hereby rejected.

Item No-9

Heard the learned Counsel represented the applicant. This is an application for variation of regular permit in respect of stage KL 17 B 7059 operating on the route Kothamangalam-Ayavana (via) Inchoor, Oonnukal, Adivadu, Pareekanny, Varappetty, Muvattupuzha, Randar as Ordinary service. In the proposed variation the applicant intend to vary the permit with an additional trip to Kothamangalam at 1.46 and return to Muvattupuzha This authority considered the application in detail in the light of the report of route enquiry officer and existing Government notifications and reveals the following.

The route overlaps a distance of 1.5 km at Muvattupuzha town with various notified schemes like Aluva – Kattappana , Kottayam- Kozhikode published vide GO(P) No.42/2009/ Tran dtd 14/07/2009 and further modified by GO(P) No.08/2017/Tran dtd 23/03/2017. The said notification restricts further variations in existing permits . Moreover as per Clause (9) of the said notification the right to operate additional services or increasing the number of trips on the notified route is exclusively reserved for STU. KSRTC strongly objected the proposed variation in the light of said notification. Hence application for the variation is hereby rejected.

Item No-10

Heard the learned Counsel represented the applicant. This is an application for variation of regular permit in respect of S/C KL 07 AR 4678 on the route Thannipuzha- Aluva (Via) Elampkappilly, Cheranelloor, Perumbavoor and South Vazhakulam as Thannipuzha- Aluva – Kothamanglam as ordinary service by avoiding the operation in the 11.25 am trip from Perumbavoor to Thannipuzha and intend to be operated to Kothamangalam .

This authority considered the application in detail in the light of the report of route enquiry officer and existing Government notifications.

There is an existing overlapping of 1.5 km from Perumbavoor town to Palakkattuthazham with the Aluva-Kattappana notified scheme published vide GO(P) No.42/2009/ Tran dtd 14/07/2009 which was further modified by GO(P) No.08/2017/Tran dtd 23/03/2017. The said notification restricts further variations in existing permits .

Further in the proposed variation there is curtailment of route portion from Perumbavoor to Thannipuzha and the area is not well served, where as the portion intended to be operated is very well served.

This authority feels that withdrawal of the trip from an ill served area, will adversely affect the passengers and interest of the public is the main factor for the grant of a variation on existing regular permit. The existing benefits enjoyed by the public shall not be deprived of consequent to the variation of the permit. Hence curtailment of existing trips cannot be allowed. Moreover it is reported that hon'ble MLA of Perumbavoor objected the proposed curtailment. Further there is no necessity under rule 145(6) warranting for the grant of proposed variation. Hence application for the variation of permit is hereby rejected.

Item No-11

Heard the learned Counsel represented the applicant. This is an application for variation of regular permit in respect of S/ C **KL40 M 2680** operating on the route Perumbavoor – Kalamassery HMT –Thrippunithura (Via) Choorakkode, Alumchuvadu, Arackappady, Onamkulam, Allapra, Perumbavoor, Shalem, Eswarankavala, Oottymattom, Kizhakkambalam, Pallikkara, Vayanasala, Edachira, Shappumpady, Navodaya, Kakkanad, Hmt, Karingachira, Thrippunithura as Perumbavoor – Kalamassery HMT – Thrippunithura and intend to varied the trip at 4.47 pm from Thripunithura by deviating the service (Via) Pallikkara, Kizhakambalam Market Jn, Erumely and Parakkode (Via) Olimpyan Sreejesh road. This authority considered the application in detail in the light of the report of route enquiry officer and existing Government notifications. There is an existing overlapping of 2.00 km from Karingachira to Thripunithura with the Ernakulam-Thekkady scheme and 450 mtrs at Perumbavoor town with Aluva-Kattappana notified scheme published vide GO(P) No.42/2009/ Tran dtd 14/07/2009 which was further modified by GO(P) No.08/2017/Tran dtd 23/03/2017. The said notification restricts further variations in existing permits .

Further the proposed variation includes curtailment of the route portion from Pallikkara to Kitex (via) Morakkala .This authority feels that withdrawal of the trip will adversely affect the passengers and interest of the public is the main factor for the grant of a variation on existing regular permit.

The existing benefits enjoyed by the public shall not be deprived of consequent to the variation of the permit. Hence curtailment of existing trips cannot be allowed. Hence application for the variation of permit is hereby rejected.

Item No-12

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C KL 40 J 2737 operating on the route Malayidamthuruthu-Perumbavoor-Aluva. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-13

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C C KL 44 B 2447 operating on the route **Urulanthanny-Kottappady**. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-14

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C KL 40 C 3312 operating on the route **Koothattukulam-Aluva** . Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-15

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C KL 03 N 7737 operating on the route **Aluva-Kothamangalam** . Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-16

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C C KL 07 AU 9176 operating on the route **Thonippara-Perumbavoor- Kothamangalam** . Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-17

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C C KL 40 K 4145 operating on the route **Perumbavoor-Kolencherry** . Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-18

This is the request of Secretary RTA Pathanamthitta for concurrence of this authority for granting fresh regular permit in respect of stage carriage KL 06 E 6166 or suitable stage carriage to operate on the route Koothattukulam- Bharanikavu (Via) Amanakara, Rampuram, Pala Kottramadam Stand, Ponkunnam, Chenappadi, Ranni, Adoor, Manakkala, and Nellimukal .

As per the report of the MVI Muvattupuzha a distance of 3.8 Km from Koothattukulam to Perumkutty comes under the jurisdiction of this authority. There is an overlapping of 300 mtrs from Koothattukulam to Ramapuram Jn with the notified scheme Kottayam-Kozhikode.

Hence concurrence is granted without prejudice to the right of the primary authority to decide the nature of service depending on the route length and subject to the effect of clause 5(c) of notification published vide GO(p) 08/2017/Trans dated 23/03/2017.

Item No-19

Heard, the learned counsel represented the permit holder Sri Sulfickar .This is a request of the Permit holder of Stage carriage KL 17 8199 to replace his existing vehicle with a later model vehicle, since the route bus attains the age limit of 15 years on 09/07/2018.

This authority considered the application in detail. The above mentioned stage carriage was covered by a valid regular permit on the route Perumbavoor- Kothamangalm .

The vehicle KL-17-8199 completed the age of fifteen years on 09/07/2018, and hence thereafter, the vehicle cannot be operated as stage Carriage. Even though the permit holder was well aware to replace the vehicle with another suitable vehicle before completing 15 years of old vehicle covered by the permit, he has not complied the permit condition attached to the permit.

Sub Section[1]a of Section 86 of Motor Vehicles Act-1988 stipulates that the transport Authority which granted a permit may cancel the permit or may suspend it for such periods as think fit on the breach of any condition contained in the permit. Here, the permit holder breached the permit condition. Rule 152 of the Kerala Motor Vehicles Rules,1989 explained the consequence of failure to use the transport vehicle, as follows.

“It shall be a condition of the permit of every transport vehicle(other than private service vehicle permit) that the vehicle shall be so maintained as to be available for the service for which the permit was granted, for the entire period of currency of the permit and that the permit is liable to be suspended or cancelled, after due notice to the permit holder, if the vehicle has not been used for the purpose for which the permit was granted, for any day in the case of stage carriage unless a reserve bus duly authorized in this behalf has conducted substitute service in place of the route bus which defaulted service, and for a continuous period of fifteen days or more in the case of other transport vehicles, during the period for which the permit authorizes the use of the vehicle on the road, unless the State or Regional Transport Authority is satisfied that the permit holder was prevented by sufficient cause from running the service or that the permit holder had obtained the previous permission of the State or Regional Transport Authority to suspend the service for such period during which the vehicle was not operated”.

More over, the Hon’ble High court in its judgment in WP(c) 22257 of 2017 dated 31/08/2017 clearly stated that ‘ if there is no vehicle to operate under the permit, the permit become invalid’.

Here, even though notice was issued , the permit holder has not offered suitable vehicle before the expiry of the validity of the vehicle to be operated as stage carriage.

Therefore, this authority is of considered opinion that the permit holder is not eligible for the continuous operation of the stage carriage service and he is incapable of maintain a stage carriage providing better service to the public.

Hence the application is hereby rejected and the regular permit 17/466/2016 issued to stage carriage KL-17-8199 on the route Perumbavoor-Kothamangalam is hereby cancelled.

Item No-20

Heard, the learned counsel represented the applicant Sri Wilson K P. This is a request of the applicant to grant the fresh regular permit , on the route Perumbavoor-Kochupurackalkadavu as ordinary moffusil service, to a suitable stage carriage having age not more than 8 years in the light of STA decision as well as the decision of RTA Muvattupuzha on age of stage carriages.

This authority considered the matter in detail. RTA, Muvattupuzha in its sitting dtd 17/08/2016 rejected the fresh regular permit application submitted by the applicant to operate on the route Perumbavoor-Kochupurackalkadavu as ordinary service, since he failed to produce a suitable vehicle which satisfies the condition of age preferred by this authority in the earlier sittings. Mean while temporary permits were availed on the above route in the light of various judgments of hon’ble courts and last TP thus issued was expired on 24/07/2017.

The decision regarding the age of stage carriages was challenged by some of the applicants through writ petitions before hon’ble High court and the hon’ble court , in a common judgment in WP© 33980 of 2015, directed the STA to take a decision to the maximum age of the vehicles to be used for conducting ordinary stage carriage services, since it is a matter affecting the stage carriage operators throughout the State.

It is also directed that revised orders on the applications preferred by the petitioners for grant of permits shall be passed by the Regional Transport Authorities concerned, if situation warrants after the decision of the State Transport Authority.

Mean while State Transport Authority in its meeting held on 14/06/2017 decided to fix the age limit for the stage carriages in applying and granting fresh regular permits as 8 years for ordinary services. According RTA Muvattupuzha also uphold the decision of STA.

Now the applicant requested to grant the regular permit on the applied route in the in the light of STA decision dtd 14/06/2017 on age of stage carriages. Considering all these facts and perusing the connected files, this authority feels that, in the instant case the applicant is not a petitioner in WP© 33980 of 2015 or connected cases so as to pass revised order on the fresh permit application as ordered by the hon'ble court after the decision of the State Transport Authority, if situation demands the same.

In the present circumstances , this authority is in view that the applicant has a ready vehicle which complies the condition of age preferred by the STA and considering the public interest towards the introduction of a new service, fresh regular permit is granted to the applicant to a suitable stage carriage having age not more than 8 years on the route Perumbavoor-Kochupurackal Kadavu as ordinary mofussil service with already settled set of timings subject to the remittance of fee for fresh permit .

Item No-21

Ratified.

Item No-22

Next meeting will be conducted on 15/09/2018.

Item No-23

Nil.

Sd/-

Shaji Joseph

Deputy Transport Commissioner
CZ-II & Member RTA Muvattupuzha

Sd/-

Muhammed Y Safirulla I.A.S.

District Collector &
Chairman-RTA Muvattupuzha.