

**DECISION OF REGIONAL TRANSPORT AUTHORITY MUVATTUPUZHA
HELD ON 15-09-2018**

**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

A) Heard the learned counsel represented the applicant Sri Ajmaludheen . This is a request for condonation of delay for submitting the renewal of permit application in respect of S/C KL-38 4131 to operate on the route Muvattupuzha - Kothamangalam 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 S/C KL-38 4131 to operate on the route Muvattupuzha - Kothamangalam 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 having route length 24 km and there is an overlapping of 2 km from new Bus stand to BOC Junction at Muvattupuzha with the notified scheme Aluva- Kattappana. The regular permit was seen issued prior to 09/05/2006 and this authority feels no legal impediments to renew the permit for continuous operation.

Hence delay on submitting the renewal of permit application is condoned and renewal of regular permit granted to Stage Carriage KL-38 4131 to operate on the route Muvattupuzha - Kothamangalam as ordinary moffusil service.

Item No-2

A) Heard the learned counsel represented the applicant Smt Merlin. This is a request for condonation of delay for submitting the renewal of permit application in respect of KL-26- 6676 operating on the route Murivilangu-Aluva as Ordinary 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 KL-26-6676 to operate on the route Murivilangu-Aluva as Ordinary service. The permit holder has applied for renewal of permit belatedly along with request for condonation on delay for not submitting the application in proper time. It is reported that the applicant has produced a medical certificate to substantiate her claim as she was not well to submit the application in time.

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 having route length 22.5 km but the permit was seen expired on 5/09/2018 since the permit holder not able to file the application in time. This authority feels that withdrawal of a service from any route will adversely affect the common public.

Hence delay on submitting the renewal of permit application is condoned and renewal of regular permit granted to Stage Carriage KL-26 6676 operating to operate on the route Murivilangu-Aluva as ordinary moffusil service, subject remittance of Rs 5000/- as compounding fees.

Item No- 03

A) Heard the learned counsel represented the applicant Sri Eldho T Alias. This is an application for variation of regular permit in respect of S/C KL 07 AY 272 to operate on the route Muvattupuzha- Chottanikkara (Via) Marady, Pampakuda, Mannathoor, Vettikkattapuram, Koothattukualam, Kolencherry, Monippilly and Erumely as ordinary service as Muvattupuzha-Chottanikkara (Via) Marady, Pampakuda, Mannathoor, Vettikkattapuram, Koothattukualam, Kolencherry, Monippilly Nadukuriz, Thiruvaniyoor, OEN, Vettickal and Thuppampady. The proposed variation is a deviation of route in the trip to Chottanikkara from Monippally (Via) , Nadukuriz, Thiruvaniyoor, OEN, Vettickal and Thuppampady instead of (Via) Vandipetta, Kanniyattunirappu.

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 S/c KL 07 AY 272 on the route Muvattupuzha- Chottanikkara is hereby rejected.

B) Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C KL 07 AY 272 operating on the route Muvattupuzha- Chottanikkara as ordinary service. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No- 04

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C KL 40 F 3921 operating on the route Vadakkumpilly- Aluva. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-05

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C KL 25 4226 operating on the route Piravom- Muvattupuzha. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-06

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of KL 05 S 5650 operating on the route Panamkuzhy-Angamaly. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-07

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C KL 06 C 6151 operating on the route Kanichattupara-Aluva. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-08

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of KL 17 D 9295 operating on the route Aluva- Kaloor. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-09

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of KL 07 AQ 5150 operating on the route Akanad-Muvattupuzha. Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-10

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C KL 10 Y 7847 (replaced by KL 61 B 7770)operating on the route Perumbavoor- Muvattupuzha . Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-11

Heard ; the learned counsel represented both the applicants. This is an application for transfer of permit in respect of S/C KL 27 5818 operating on the route Pothanikad-Aluva Transfer of permit is allowed as applied for subject to the clearance of Government dues if any.

Item No-12

Perused the files. This item is for ratifying the replacement of stage carriages done by Secretary RTA in cases had material difference greater than 25%. In all the reported cases the incoming vehicles had higher seating capacity , which found beneficial to the travelling public. This may also lead to increase in public exchequer and travelling facility of common public. Hence the action of Secretary RTA is ratified.

Item No-13

Heard, the learned counsel represented the permit holder Sri Mahinjkunju .This is a request of the Permit holder of Stage carriage KL 08 X 7785 to replace his existing vehicle with a later model vehicle, since the route bus attains the age limit of 15 years on 29/06/2018.

This authority considered the application in detail. The above mentioned stage carriage is covered by a valid regular permit on the route Perumbavoor- Puthukkalavattam and the regular permit is valid up to 01/06/2019.

The vehicle KL 08 X 7785 completed the age of fifteen years on 29/06/2018, 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".

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 17/202/2002 issued to stage carriage KL-08 X 7785 on the route Perumbavoor- Puthukkalavattam is hereby cancelled.

Item No-14

Heard, the learned counsel represented the permit holder Sri Maju Varghese .This is a request of the Permit holder of Stage carriage KL 04 N 3443 to replace his existing vehicle with a later model vehicle, since the route bus attains the age limit of 15 years on 19/08/2018.

This authority considered the application in detail. The above mentioned stage carriage is covered by a valid regular permit on the route Perumbavoor- Kolencherry and the regular permit is valid up to 29/02/2020.

The vehicle KL 04 N 3443 completed the age of fifteen years on 19/08/2018, 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".

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 17/27/2005 issued to stage carriage KL 04 N 3443 on the route Perumbavoor- Kolencherry is hereby cancelled.

Item No-15

Perused the file and ratified the cancellation of the regular permit No-17/107/2006, issued in respect of stage carriage KL 17 F 5565 operate on the route Vazhakulam-Kalloorkkad as ordinary service.

Item No-16

Perused the file and ratified the cancellation of the regular permit No-17/54/2003 issued in respect of stage carriage KL 17 A 134 operate on the route Kunnuvazhy-Pandappally as ordinary service.

Item No-17

Perused the file and ratified the cancellation of the regular permit No-17/490/2003 issued in respect of stage carriage KL 17 A 9005 to operate on the route Perumbavoor-Panamkuzhy as ordinary service.

Item No-18

Perused the connected file and records. In the meeting of this authority dated 19/05/2018, fresh four month temporary permit has been granted to Sri P M Vijayan, Palakuzhy House, Vadayampady P O, Puthencruz to operate on the route Pothanikad-Ernakulam as LSOS in the vacancy of KL 17 D 3322. It is reported that the decision was communicated to the applicant on 12/07/2018 with direction to produce the current records of the vehicle within 30 days .The grantee submitted a request on 08/08/2018 along with the IC, CF and Tax token of the S/c KL 04 Q 2025, stating that the original RC is kept before hon'ble JFCM court Kolencherry in connection with CMP no 951/17 in CC no 227/16. Later on 07/09/2018 the grantee has produced the original RC along with an interim order of the JFCM court Kolencherry and received back for resubmitting before the court.

It is also reported that on verification of the RC of KL 04 Q 2025, it is found that the registered owner is one Mr Muhammed, S/o Pareeth, Kanjirakkattu House, Randar P O, Muvattupuzha. The applicant informed that he is possessor of the vehicle and there is financial dispute between both of them and the issue is now pending before hon'ble JFCM court Kolencherry. He has not produced any lease agreement to prove his possession of the vehicle KL 04 Q 2025.

This authority considered the matter in detail. KMV Rules 159(2) stipulates that in the event of any applicant failing to produce the certificate of registration within the period specified by the Transport authority, the authority may revoke its sanction of the application. In the judgment pronounced by the hon'ble High court (Seethal V.RTA Thrissur 2003 (3) KLT 357), viewed that, if the current records are not produced in the stipulated time ,then the permit shall stand cancelled as it is a necessary consequence operation of the condition of permit granted under S.72(2) read with R.159(2).

In this circumstances this authority feels that the grantee was failed to produce the current records of a suitable vehicle within the prescribed time limit of 30 days and not filed any application for allowing maximum time for the production of records. Hence the granted sanction is here by revoked.

Item No-19

Ratified.

Item No-20

Next meeting will be conducted on 17/11/2018.

Item No-21

Nil.

Sd/-
Shaji Joseph
Deputy Transport Commissioner
CZ-II & Member RTA Muvattupuzha

Sd/-
Mohammed Y Safirulla I.A.S.
District Collector &
Chairman-RTA Muvattupuzha.