
(1984) 07 AHC CK 0029

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No's. 7681, 7676 and 8492 of 1984

Bishambhar Singh and Others

APPELLANT

Vs

State Transport Appellate Tribunal and Others

RESPONDENT

Date of Decision : 26-07-1984

Acts Referred:

Motor Vehicles Act, 1939 — Section 43A, 48

Citation : AIR 1984 All 355 : (1984) AWC 595 Supp

Hon'ble Judges : B.N. Sapru, J

Bench : Single Bench

Advocate : R.A. Sharma, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

B.N. Sapru, J.—These writ petitions have been filed against an order of the State Transport Appellate Tribunal dated 30-5-1984 passed in appeals preferred by some of the respondents against an order of the Regional Transport Authority, Agra Region, granting permits to the petitioners on Aligarh-Jaleshwar route.

2. On 12-10-1977 the U. P. Government issued a notification No. 440/-T/XXX-4-17 SKM/75 u/s 43-A of the Motor Vehicles Act which was inserted by the Motor Vehicles (Uttar Pradesh Amendment) Act, 1972 and gave certain directions to the State Transport Appellate Tribunal and the Regional Transport Authorities in respect of the consideration of the applications for the stage carriage permits. Under Clause (2) of the Government Order it is provided that the State Transport Appellate Tribunal and the Regional Transport Authority shall grant stage carriage permits to the various categories of applicants in accordance with the quota shown against each category.

3. There were 10 vacancies for the grant of permits. On 8-4-1978 the Regional Transport Authority granted permits in favour of the petitioners in all the three writ petitions. The permits were granted in accordance with the provisions of the

Government Notification dated 12-10-1977.

4. The contesting respondents filed appeal before the State Transport Appellate Tribunal. During the pendency of the appeal another Government Notification dated 15-12-78 was issued. This notification is No. 3330-T/XXX-4-178-KM/75. This notification was also issued u/s 43-A of the Act. Under this notification, the categories of persons to whom permits could be granted, were modified and percentage of permits fixed for each category was altered.

5. It is necessary to mention here that subsequently by Notification dated 10-1-1981 the Government Notification dated 15-12-1978 was rescinded with immediate effect.

6. The appeals were decided by the State Transport Appellate Tribunal on 30-5-1984.

7. The Tribunal in paragraph 4 of its order has observed as follows :--

"It is an admitted fact that all these permits were granted taking into consideration the principles laid down in the notification dated 12th Oct. 1977. Once this notification does not exist, any consideration made by the R.T.A. on the basis of the same would not be proper consideration for the grant of permits. That notification dealt with grant of permits category wise. Now that consideration could not be the principle on which the permits are to be granted. Once the grant of permits was being made on the basis of certain categories as found in the notification dated 12th Oct. 1977. and once those considerations were irrelevant today in view of the existing law the only alternative for us is to set aside the order of the R.T.A. and send the cases back to the R.T.A. for reconsideration according to the latest legal position."

8. On the basis of the reasons given in paragraph 4 of the judgment, the Tribunal has allowed the appeals and sent the question of grant of permits back for reconsideration to the Regional Transport Authority according to the law explained by the Tribunal. The Tribunal has said that the effect of the rescission of the notification dated 12-10-1977 was that the permits granted to the petitioners in pursuance of the provisions of the notification became bad in law on the rescission of the notification.

9. It is settled law that a right which has accrued in favour of a person is not affected by an amendment of law unless the amendment in law has been given retrospective effect.

10. It is also material to mention here that in the Notification dated 15-12-1978 Clause (3) expressly provided that this notification shall not apply to appeals pending before the State Transport Appellate Tribunal in cases decided by the Regional State Transport Authority in accordance with the provisions applicable prior to coming into operation of this notification.

11. It is further provided that notwithstanding anything contained in this

notification, anything done or any action taken under notification dated Oct. 12, 1977, referred to above shall be deemed to have been done according to law.

12. Thus, the notification dated 15-12-1978 expressly protected the permits granted under the notification dated 12-10-1977. It is further provided that the notification dated 15-12-1978 would not affect the appeals pending before the State Transport Appellate Tribunal. The clear direction in the notification dated 15-12-1978 was that the appeals before the Tribunal pending on the date of the enforcement of the notification should be decided according to law as in existence at that time.

13. In this view of the matter the decision of the State Transport Appellate Tribunal cannot be sustained and has to be quashed.

14. Various other questions were raised by the appellants before the State Transport Appellate Tribunal which have not been gone into in view of its interpretation of the notification dated 15-12-1978. In this situation, the other questions raised on behalf of the appellants will have to be gone into by the Tribunal in accordance with law.

15. In the result, the impugned order of the State Transport Appellate Tribunal dated 30-5-1984 is quashed, the matter will now go back to the Tribunal to decide the appeals afresh. The parties undertake to appear before the State Transport Appellate Tribunal on 27-8-1984 so that the Tribunal may fix a date for hearing. The Tribunal should decide the matter as early as possible. The parties will bear their own costs.