

(1985) 02 KAR CK 0013

In the Karnataka High Court

Case No : Writ Petition No's. 2268 and 2269 of 1985

B.S. Shankar

APPELLANT

Vs

Regional Transport Authority

RESPONDENT

Date of Decision : 18-02-1985

Acts Referred:

Karnataka Motor Vehicles Rules, 1963 — Rule 178 (4) (i)
Motor Vehicles Act, 1939 — Section 64 A

Citation : (1985) ILR (Kar) 2249

Hon'ble Judges : K.A. Swami, J

Bench : Single Bench

Advocate : H.B. Datar and R.S. Hegde, for the Appellant; S. Udayashankar, HCGP, for the Respondent

Final Decision : Allowed

Judgement

K.A. Swami, J.—As these Petitions can be disposed of on a short point, the same are taken up for final disposal.

2. The petitioners have preferred U.R.P Nos. 106 and 107 of 1985, respectively, before the 2nd respondent against the resolutions dated 5-1-1985 passed by the first respondent in Subject Nos. 320 and 321 of 1984-85 respectively, resolving to reject the applications that may be filed by the petitioners for grant of special permits in respect of vehicle Nos. C.A.A 4589 and M.E.D. 6589 for a period of three months from the date of communication of the resolutions.

3. After the aforesaid resolutions were passed, the petitioners filed applications for grant of certified copies of the resolutions on 9-1-1985. The copies of resolutions were delivered to them on 6-2-1985. They have filed the aforesaid two Revision Petitions before the second respondent on 7-2-1985. Along with the Revision Petitions, the petitioners have also filed the applications for condonation of delay in preferring the Revision Petitions as the period for filing the the Revision Petition is 30 days from the date of the order. The 2nd respondent has held that since the petitioners were represented by a Counsel and the orders

were pronounced in the open Court on 5-1-1985, they must be deemed to have had actual or constructive knowledge of the resolutions; that the limitation begins to run from 5-1-1985, as such the Revision petitions ought to have been filed on 4-2-1985, whereas the same are filed on 7-2-1985; as such the same are barred by time by three days and there is no sufficient cause for condoning the delay of 3 days because the petitioners have not stated in their affidavits as to why they could not file applications for certified copies of the resolutions on 5-1-1985 itself or on the next day. In this view of the matter, the 2nd respondent has rejected the applications filed by the petitioners for condonation of delay and as a result thereof, has dismissed the revision Petitions.

4. The second respondent has relied upon a Division Bench Decision of this Court in *G. R. Nanjundaswami - v. - The Mysore State Transport Appellate Tribunal and Ors.* AIR 1972 Mys 6. It appears to me that the impugned orders of the 2nd respondent cannot be sustained. No doubt, the limitation for filing a Revision Petition u/s 64A of the Motor Vehicles Act, 1939 (hereinafter referred to as the "Act") commences from the date of the order. That it is so, can be taken to have been well established in view of a decision of the Supreme Court in *Municipal Board, Pushkar Vs. State Transport Authority, Rajasthan and Others*, , and *G. R. Nanjundaswamy - v. - Mysore State Transport Appellate Tribunal & Ors.* Even otherwise, in this case, it is not the contention of the Petitioners that the limitation for the purpose of filing a Revision Petition u/s 64 A of the Act, does not commence from the date of the order. Therefore, it is not necessary to go into that question.

5. Thus, in these Petitions, the question is not from what date the limitation begins to run. The question is whether the Revision Petitions filed by the Petitioners can be held to have been filed in time or if the same are barred by time, whether the 2nd respondent is justified in rejecting the applications filed by the Petitioners for condoning the delay.

6. As it is already pointed out, the resolutions in question are passed on 5-1-1985. The Petitioners have filed the applications on 9-1-1985 for grant of certified copies of the resolutions which were not supplied to them immediately, and the delay was not due to the negligence of the Petitioners in complying with the requirements for supplying certified copies. Certified copies of the resolutions were furnished to the Petitioners on 6-2-1985. Thus, the period from 9-1-1985 to 6-2-1985 is spent in obtaining the certified copies of the resolutions. This period is taken by the first respondent for supplying the certified copies. No part of this period is attributable to the negligence or otherwise of the Petitioners in complying with the requirements for furnishing certified copies of the resolutions. Rule 178(4)(i) of the Karnataka Motor Vehicles Rules, 1963 (hereinafter referred to as the "Rules") provides as follows :

"An appeal u/s 64 of the Act or a Revision Petition u/s 64-A of the Act, shall be in the form of a memorandum setting forth concisely the grounds of objection to the decision or order which is the subject of appeal or revision and shall be

accompanied by a certified copy of the decision or order."

In accordance with the aforesaid Rule, the party preferring a revision Petition is required to produce a certified copy of the decision or order against which the revision is filed. Not unnaturally sometime is spent on obtaining a certified copy of the decision or order. No doubt, the provisions of the Limitation Act, are not made applicable to the proceedings before the R.T.A., S.T.A., and K.S.T.A.T. under the provisions of the Act. A specific proviso has been inserted in Section 64-A of the Act, by the Central Act No.47 of 1978, which enables the State Transport Appellate Tribunal to entertain the application after the expiry of the period of 30 days if it is satisfied that the applicant was prevented by sufficient cause from making the application in time. When the Rule specifically provides that a certified copy of the decision or order shall be produced along with the revision Petition, even in the absence of a specific provision for deducting the time spent in obtaining a certified copy of the decision or order contained in the Act or in the Rules; the Rule providing for production of a certified copy of the decision or order along with the revision Petition must be held to contain an in-built provision to entitle a revision petitioner to deduct the time spent in obtaining a certified copy of the decision or order, if the same is applied for within the period of limitation of 30 days. Any other interpretation would result in impairing the remedy of revision provided to a party, apart from making the law unreasonable. Of course, the application for obtaining a certified copy of the decision or order must have been made within the period allowed by law for preferring a revision petition u/s 64A of the Act, and no part of the time spent in obtaining a certified copy should be attributable to the negligence of the applicant. Then only the entire period spent in obtaining a certified copy of the decision or order, the revision petitioner is entitled to deduct. In other words, only so much of the time which is taken by the authority for supplying a certified copy and not the time which is attributable to the applicant for not complying with the requirements for supplying a certified copy of the decision or order is entitled to be deducted. One more rider must also be added to this. It is that in a case when an authentic copy of the decision or order against which a revision is preferred, is served upon the party by way of intimation, within thirty days from the date of the order; in such a case, the party preferring a revision petition can very well produce such an authentic copy of the decision or order along with revision Petition. In such a case, the revision Petitioner is not required to produce a certified copy of the decision or order along with revision Petition and as such, he is not required to spend time for obtaining a certified copy of the decision or order. Therefore, in such a case, the revision petitioner will not be entitled to have the time spent in obtaining a certified copy of the decision or order inducted. In the instant case, authentic copies of the resolutions are not served upon the revision petitioners. They have obtained certified copies of the resolutions on filing applications for supply of certified copies within the period of limitation; therefore, they are entitled to have the time spent in obtaining certified copies of the resolutions, deducted.

7. In *P. Balarama Krishna Rao and Another Vs. The Govt. of Andhra Pradesh and Others*, , similar view is expressed under similar circumstances; and it is held that the time spent in obtaining a certified copy which is required to be filed along with the revision petition can be excluded. The Rule which is considered in that case is Rule 196 of the Andhra Pradesh Motor Vehicles Rules, which also makes it obligatory on the part of the revision petitioner to produce the original of a certified copy of the order against which the revision application is preferred. Thus, the Rule which is considered in the aforesaid case is *pari materia* with the Rule which is concerned in these Writ Petitions. After deducting the time occupied for securing certified copies of the resolutions produced along with the revision petitions filed before the 2nd respondent, the revisions are filed within thirty days from the date of the resolutions. Hence the same are filed in time.

8. In the view I take on the first portion of the question, it is not necessary to consider the latter portion. However, it is necessary to point out that the view of the 2nd respondent that there is no explanation as to why the applications for grant of certified copies were not made either on 5-1-1985 or the next day; therefore, there is no cause shown for condoning the delay, is highly unreasonable. As long as the applications for grant of certified copies of the resolutions are filed within 30 days from the date of the order, the entire time spent in obtaining the certified copies of the resolutions is taken by the 1st respondent only, the petitioners are prevented from filing the revision petitions during the period occupied for granting certified copies for the reason beyond their control because the Rule provides that the revision petition shall be accompanied by a certified copy of the decision or order against which the revision petition is preferred. Therefore, even otherwise the petitioners have shown sufficient cause for condoning the delay. As such, the 2nd respondent ought to have condoned the delay.

9. For the reasons stated above, these Writ Petitions are entitled to succeed. Accordingly, the same are allowed. The impugned order dated 11-2-1985 passed by the 2nd respondent in U.R.P. Nos. 106 & 107 of 1985, produced as Annexure-B, is hereby quashed. The appeals now stand remitted to the K.S.T.A.T. Bangalore, with a direction to consider the same on merits and in accordance with law.