

(2011) 11 UK CK 0137
In the Uttarakhand High Court
Case No : Special Appeal No. 262 of 2011

Darshan Singh

APPELLANT

Vs

State of Uttarakhand and Regional Transport Authority,
Dehradun

RESPONDENT

Date of Decision : 09-11-2011

Acts Referred:

Motor Vehicles Act, 1988 — Section 74, 82, 83, 89(1)

Citation : (2011) 11 UK CK 0137

Hon'ble Judges : Barin Ghosh, C.J; Umesh Chandra Dhyani, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Barin Ghosh, C. J.

1. Section 74 of the Motor Vehicles Act, 1988 (hereinafter referred to as the Act) authorises Regional Transport Authority to grant contract carriage permits. In the instant case, the Regional Transport Authority has issued a notification and thereby has disclosed that 10 permits may be granted on the route on which appellant is plying his vehicle on the basis of contract carriage permit issued in his favour. While appellant has been accorded contract carriage permit to ply buses; in the decision of the Regional Transport Authority, referred to above, it has indicated that 10 contract carriage permits may be issued to ply light motor vehicles. In the writ petition, appellant contended that the same was not permissible. The writ petition has been rejected on the ground that the appellant has an alternative efficacious remedy u/s 89(1) of the Act. Section 89(1) of the Act is as follows:-

89. (1) Any person-

(a) aggrieved by the refusal of the State or a Regional Transport Authority to grant a permit, or by any condition attached to a permit granted to him, or

(b) aggrieved by the revocation or suspension of the permit or by any variation

of the conditions thereof, or

(c) aggrieved by the refusal to transfer the permit u/s 82, or

(d) aggrieved by the refusal of the State or a Regional Transport Authority to countersign a permit, or by any condition attached to such countersignature, or

(e) aggrieved by the refusal of renewal of a permit, or

(f) aggrieved by the refusal to grant permission u/s 83, or

(g) aggrieved by any other order which may be prescribed,

may, within the prescribed time and in the prescribed manner, appeal to the State Transport Appellate Tribunal constituted under sub-section (2), who shall, after giving such person and the original authority an opportunity of being heard, give a decision thereon which shall be final.

2. As would be evidenced from Section 89(1) of the Act, the order impugned in the writ petition is not covered by Clauses (a), (b), (c), (d), (e) & (f) thereof. The order impugned in the writ petition may be covered by Clause (g) of sub-section (1) of Section 89 of the Act. However, it has not been shown before us that the order impugned in the writ petition has been prescribed as one of the orders against which an appeal will lie.

3. Being aggrieved by the judgment and order, by which the writ petition of the appellant has been rejected on the ground of availability of alternative efficacious remedy, the present appeal has been filed.

4. For the reasons indicated above, we are of the view that the appellant had no alternative efficacious remedy, where he could seek redressal of his grievance highlighted in the writ petition.

5. We, accordingly, allow the appeal and set aside the impugned order. The matter is remitted back to the writ Court for decision on merits.