
(1992) 03 P&H CK 0038
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2233 of 1992

Gill Bus Service (Regd.) Amritsar

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 30-03-1992

Acts Referred:

Constitution of India, 1950 — Article 226
Motor Vehicles Act, 1939 — Section 47, 64

Citation : AIR 1993 P&H 128 : (1992) 101 PLR 678

Hon'ble Judges : V.K. Bali, J; Amrit Lal Bahri, J

Bench : Division Bench

Advocate : Ashu M. Punchhi, for the Appellant; M.C. Berri, Dy. A.G., for the Respondent

Judgement

1. Vide this order two writ petitions are being disposed of numbers C.W.P. 2233 of 1992 and 2406 of 1992. Since the question involved is common, broad facts are taken from C.W.P. No. 2233 of 1992.

2. The Regional Transport Authority on December 29, 1988 allowed one route permit with one return trip on Amritsar-Gurdaspur route to Punjab Roadways, Mukhtsar after observing necessary formalities. An appeal was taken by the present petitioner-Gill Bus Service against the order of Regional Transport Authority. The appeal was allowed on November 30, 1991, copy of the order is Annexure P/1. While setting aside the order of the Regional Transport (Authority) granting permit in favour of Punjab Roadways, Mukhtsar, the Appellate Authority granted permit to the petitioner on the aforesaid route. Subsequently, representations were filed by the petitioner before the Regional Transport Authority to comply with the orders of the Appellate Authority. Since no action was taken, the petitioner has approached this Court through this writ petition for issuing writ of mandamus directing the respondents to issue one regular stage carriage permit with one return trip on Amritsar-Gurudaspur route.

3. The written statement has been filed by the Regional Transport Authority,

Jalandhar on behalf of the two respondents including the State of Punjab. The stand taken up in the written statement is that the Appellate Authority had no jurisdiction to grant permit to the petitioner and the order was not required to be complied with by the Regional Transport Authority.

4. Section 47 of the Motor Vehicles Act, 1939 which was prevalent at the relevant time authorised Regional Transport Authority under the Act to grant Stage carriage permits. Different grounds are mentioned in S.47 which were to be taken into consideration while granting the permits. The order of the Regional Transport Authority could be challenged by filing an appeal as provided under S.64 of the Act before the State Transport Appellate Tribunal. The Tribunal after giving an opportunity of hearing to the appellant was required to give a decision which is to operate as final. The right of appeal is a statutory right and the power of the Appellate Tribunal in the matter of granting permits would be the same as that of the Regional Transport Authority as provided under S. 47 of the Act. If such conditions existed that the permit should have been granted in favour of the petitioner and not Punjab Roadways, Mukhtsar, the Tribunal could pass the order, granting permit to the petitioner. Further comment in this respect is not necessary as nobody has challenged the order of the Appellate Tribunal dated November 30, 1991 Annexure P/ 1 so far. As and when the same is challenged the appropriate authority may be High Court, in exercise of jurisdiction under Art. 226 of the Constitution, may quash that order on merits, but so long the order is there, it is required to be complied with by the Regional Transport Authority. The observations made in the written statement filed by the Regional Authority that the Tribunal had no power to grant permit is uncalled for. As a subordinate authority under the Act it was not expected of the Regional Transport Authority to question the jurisdiction of the Appellate Tribunal which is constituted under provisions of the Act, more so when S.64 of the Act itself provides that the order of the Tribunal shall be final. Similar matter was under consideration of J. L. Gupta, J., in C.W.P. No. 6772 of 1991, State of Punjab v. State Transport Appellate Tribunal. It was observed that writ petition filed by State of Punjab at the behest of Regional Transport Authority was not competent and further State of Punjab was not a party aggrieved as there was no question of grant of any permit in favour of State of Punjab. We fully agree with the decision of J. L. Gupta, J., in the aforesaid writ petition. In the matter of grant of permits under S. 47 of the Act, it is the concerned party who may claim to the grant of permit on a particular route. Such party could challenge the order of the Regional Transport Authority in appeal before the Appellate Tribunal and subsequently in the writ proceedings. As far as order passed by the Appellate Tribunal is concerned, that being final qua the rights of the parties, it is incumbent upon the Regional Transport Authority, a subordinate authority under the Act to the Appellate Tribunal to comply with the same.

5. For the reasons recorded above, these writ petitions are allowed with costs. Direction is given to the Regional Transport Authority to forthwith comply with the order of the Appellate Tribunal and grant permits to the petitioners as their

claims have been found to be justified under the law. Costs are assessed at Rs.2,000/- in each case. Dasti on payment.

6. Petitions allowed.