
(1985) 07 KAR CK 0028
In the Karnataka High Court
Case No : Writ Petition No. 6165 of 1985

K. Shambu

APPELLANT

Vs

K.S.T.A.T.

RESPONDENT

Date of Decision : 18-07-1985

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Motor Vehicles Act, 1939 — Section 47 (3), 64 A

Citation : (1986) ILR (Kar) 1624

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

Bench : Single Bench

Advocate : A.S. Viswanath, for the Appellant;

Final Decision : Dismissed

Judgement

K. A. Swami, J.—In this petition under Articles 226 and 227 of the Constitution, the petitioner has sought for quashing the order dated 3rd January, 1985, passed by the Karnataka State Transport Appellate Tribunal (hereinafter referred to as the KSTAT) in Revision Petition No. 259/84, produced as Annexure-B. The petitioner has also sought for quashing the resolution passed by the R. T. A., Mangalore, on 21-4-1984, in Subject No. 21/84-85.

2. By the aforesaid resolution, the R. T. A. has made a determination u/s 47 (3) of the Motor Vehicles Act (hereinafter referred to as the Act). It has held that it is stashed that there exists a permanent need to introduce additional bus service on the route State Bank to Morgansgate (City Rome No. 18). Being aggrieved by the aforesaid resolution, the Petitioner preferred a Revision Petition No. 259/84 before the K.S.T.A.T. on 10-9-1984. the Revision Petition has been dismissed on the ground that it is barred by time. The petitioner filed an application for condonation of delay. The explanation offered was that he was not aware of the resolution till 28-7-1984, the date on which he filed an application for a certified copy of the resolution, The certified copy of the resolution was furnished to him on 9-8-1984. As it is already pointed out, Revision Petition was filed on

10-9-1984. With regard to the period from 9-8-1984 to 10-9-1984 the explanation of the petitioner was that the limitation began to run from 9-8-1984, the date on which the petitioner came to know of the contents of the resolution and from that date, the case of the petitioner was that the Revision Petition was filed within 30 days because 8th and 9th of September, 1984 happened to be the second Saturday and Sunday, as such the Revision Petition was filed in time. The K.S.T.A.T. has rejected the explanation and has held that there was no reason whatsoever for the petitioner to wait till 10-9-1984 when once he obtained the certified copy of the order on 9-8-1984. No doubt, the K.S.T.A.T. has not in categorical terms held that the limitation begins to run from the date of the resolution; however, the reason given by it for rejecting the application that no explanation is offered for not filing the Revision Petition immediately on obtaining the certified copy of the resolution, is sufficient to indicate that it was of the view that the limitation commenced from the date of the resolution and there was no reason whatsoever for the petitioner to wait till 10-9-1984 for filing the Revision Petition when once he obtained a copy of the resolution on 9-8-1984.

3. Sri. A.S. Viswanath, learned Counsel for the petitioner submits that the K.S.T.A.T. is in error in holding that the petitioner is required to explain the delay from 9-8-1984 because the limitation for the purpose of filing the Revision Petition commences to run only from 9-8-1984, the date on which the certified copy of the resolution was furnished to the petitioner and it was on that date he came to know the contents of the resolution. Therefore, he submits that the Revision Petition is filed in time. It appears to me that it is not at all possible to accept this contention. The point is no more res integra. The Supreme Court in *Municipal Board, Pushkar Vs. State Transport Authority, Rajasthan and Others*, has specifically considered this question. The question that arose in that case was that whether the words "data of the order" occurring in Section 64A of the Act should not be read "as from the date of knowledge of the order". It has been held that the limitation commences from the date of the order. Following the aforesaid decision, a Division Bench of this Court in *G R. Naujundaswami v. The Mysore State Transport Appellate Tribunal and ors.* AIR 1972 Mys 6 has held that the limitation for the purpose of Section 64A of the Act commences to run from the date of the order and not from the date of knowledge. However, Sri Viswanath, Learned Counsel for the petitioner has placed reliance on another decision of the Supreme Court reported in *State of Punjab Vs. Mst. Qaisar Jehan Begum and Another*, . That case arose out of the proceeding under the Land Acquisition Act, wherein the Supreme Court was called upon to consider whether the date of the award for the purpose of filing the appeal would mean date of the knowledge of the award. No doubt, the Supreme Court has held that the date of the award for the purpose of the computing the period of limitation would be the date of the knowledge of the award. The aforesaid decision is by a Bench of three Judges, whereas the decision of the Supreme Court reported in AIR 1965 S.C. 4581 is by a Bench of five Judges. In addition to this, the specific provision in question has been interpreted in the case of *Municipal Board, Pushkar Vs. State*

Transport Authority, Rajasthan and Others, . Therefore, it is not possible to hold that the decision reported in AIR 1963 S.C. 16043 governs the present situation. Accordingly, it is held that the limitation for the purpose of filing the revision u/s 64A of the Act commences from the date of the order or resolution and not from the date of the knowledge. Of course if such an order or resolution is to have the legal effect only after it is notified in the gazette or in any other manner then as held by the Supreme Court in the aforesaid Municipal Board, Pushkar Vs. State Transport Authority, Rajasthan and Others, the limitation begins to run from the date of such publication. In the instant case, there is no provision either in the Act or in the Rules requiring the determination made u/s 47(3) of the Act to be published in a particular manner. Therefore, the determination made u/s 47(3) of the Act takes effect from the moment it is passed. Hence, the limitation has begun to run from the date of the resolution in question. Thus, the decision arrived at by the K.S.T.A.T. that the Revision Petition is barred by time and no sufficient cause for condoning the delay in filing the revision is shown does not call for interference. No other contention is urged.

4. Accordingly, this Writ Petition is dismissed.