
(1959) 03 P&H CK 0018

In the Punjab And Haryana At Chandigarh

Case No : Writ Application (Civil) No. 170 of 1955

Kartar Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 17-03-1959

Acts Referred:

Constitution of India, 1950 — Article 226
Motor Vehicles Act, 1988 — Section 47(1), 57, 63(3)

Citation : AIR 1960 P&H 181

Hon'ble Judges : K.L. Gosain, J;A.N. Grover, J

Bench : Division Bench

Judgement

Gosain, J.

(1) The facts giving rise to this case are as under: Kartar Singh petitioner is a transport operator and is engaged in this line since long. He alleges that he was running passenger bus services between Saharanpur and Ambala City, a part of which route, i.e., from Saharanpur to Jamuna Bridge, about fifteen miles, was in the State of Uttar Pradesh, and another part, i.e., from Jamuna Bridge to Ambala, about sixty-six miles, was in the State of Punjab. In 1939 the Motor Vehicles Act came into force and permit system was introduced.

He then made an application for a permit to be issued to him enabling him to run his services on the route on which he was previously running them i.e., from Sharanpur to Ambala. The Regional Transport Authority, Ambala, at its meeting held on the 1st October, 1940, under the chairmanship of W. G. Kennedy, Acting Chairman, passed an order that the petitioner may be allowed to have two counter-signatures on a U. P. permit. The services could be run under these counter-signatures for a period of three years ending on the 30th September, 1943, and they were actually so run.

The authorities then started granting temporary permits to the petitioner, and this procedure went on till the 15th October, 1950, with the result that the petitioner carried on these service till that date. Sometime in the year 1950 (the

exact date is not clearly known) the petitioner made an application for a regular permit (counter-signatures) for the same line. While this application was still pending, the authorities stopped his services on the 15th October, 1950, and no permit-regular or temporary--was given to the petitioner for any period after the said date.

The petitioner filed a petition under Article 226 of the Constitution of India in this Court (Civil Writ No. 5 of 1951) seeking to have a writ of mandamus directing the Regional Transport Authority to consider and decide his application referred to above. On the 5th July, 1951, the petition for writ was dismissed by this Court on an assurance given on behalf of the State that the application of he petitioner would be considered according to law. On the 2nd September, 1951, the said application came up before the Regional Transport Authority, Ambala, who advised the petitioner to make an application through the U.P. Government on a prescribed form.

It appears that an application was then filed as advised by the Regional Transport Authority and it again came up for hearing before the Regional Transport Authority on the 10th February,, 1953. It was then resolved by the said Authority that necessary recommendations should be made to the Provincial Transport Authority, Punjab, for the grant of counter-signatures or permit to Sardar Kartar Singh on Ambala-Jamuna Bridge portion of the Ambal-Saharanpur route. In the ordinary course this resolution of the Regional Transport Authority should have probably satisfied the petitioner, but he chose to file an appeal to the Commissioner against the said resolution.

The Commissioner by his order dated the 24th June, 1953, directed the Regional Transport Authority to decide the case and not prolong it by making references to the Provincial Transport Authority. The matter then came up before the Regional Transport Authority on the 4th January, 1954, and it appears that and agreement had by then been executed between the Punjab and U. P. authorities, according to which the Ambala-Saharanpur route had no longer remained a joint route and it had been decided that eight stage-carriage services of U. P. will come up to Jagadhri and six stage-carriage services of East Punjab will go up to Saharanpur.

In view of the said agreement the authorities of U. P. had recommended that one permit of the petitioner Kartar Singh may be countersigned up according signed the same. The petitioner went up in appeal to the Commissioner against the order of the Regional Transport Authority. This appeal was dismissed on the 4th November, 1954, and the Commissioner observed in his order as follows--

"It has been stressed before me by the learned Advocate for the appellant that the appellant should be given a permit independently on the Ambala-Jagadhri route, which the Regional Transport Authority, Ambala, can themselves, give even though the Ambala-Jagadhri route is not a joint rout. But I find that this case has all though been in the context of this joint rout Ambala-Saharnpur. Besides the right of the appellant for a permit on this route was converted into

that for counter-signatures on the permits obtained by him from the Regional Transport Authority, Meerut, in 1940.

Therefore, I feel that the Regional Transport Authority, Ambala, are quite correct in not letting him have a permit or counter-signatures for the Ambala-Jamuna Bridge portion of the Amblala-Saharanpur route except the portion Jagadhri to Jamuna Bridge out of the present joint route on which they can give him counter-signatures. This last they have already given. So I find no further justification for the interference and reject the appeal".

On the 25th April, 1954, i.e., about five and a half months after the order of the Commissioner, the petitioner filed the present application in this Court under Article 226 seeking to have various types of writs entitling him to counter-signatures for the route--Jamuna Bridge to Ambala. His main plea was that the only matters which the Regional Transport Authority could take into account in granting a permit or counter-signatures were those specified in section 47(1)(a) to (f) of the Motor Vehicle Act and that the said section left no discretion with the Regional Transport Authority to take into account any other matter.

(2) In support of his case the learned counsel for the petitioner relied on *Moti Lal and Others Vs. The Government of the State of Uttar Pradesh and Others*, The learned Advocate-General relied on *Dhopur Co-operative Transport and Multipurpose Union Ltd. v. Appellate Authority Rajasthan* AIR 1955 Raj 19, where it had been held that section 47 laid down the general conditions to which regard had to be paid, but the said conditions were not necessarily exhaustive. In view of the aforesaid conflict of authorities, Harnam Singh J. referred the case for a hearing by a Division Bench: vide his order dated the 8th December, 1955. It is a pity that the case had remained pending in this Court for a long time and has been placed for hearing now in 1959. In the meantime the Motor Vehicles Act has been amended by Central Act 100 of 1956. Sub-section (3) of section 63 of the Act in force at the time of the filing of the writ read as under--

"The provisions of this Chapter relating to the grant, revocation and suspension of permit shall apply to the grant, revocation and suspension of countersignatures of permits".

A new proviso has now been added to it by the amending Act which reads as under--

"Provided that it shall not be necessary to follow the procedure laid down in section 57 for the grant of counter-signatures of permits, where the permits granted in any one State Transport Authority of another State or by the Regional Transport Authority concerned as a result of any agreement arrived at between the States".

(3) I have no doubt that even according to the law before the enactment of the proviso the Regional Transport Authority was well within their rights in refusing to countersign the permit for any part of the route which was not a joint route

according to the arguments of the Governments U. P. and Punjab. The system of counter-signatures of one State on permits issued by another State could only work if the two States had already agreed to treat a particular route as a joint route and a part of the said route lay in one State and the other part lay in the other State.

If the route from Saharanpur to Jagadhri alone as contra distinguished from Saharanpur to Ambala was treated as a joint route, the Punjab State could have countersigned only for the portion of the route lying between Jamuna Bridge and Jagadhri. There was no bar for the Punjab State to issue any permit for any route lying entirely in their own territory, but that is a matter entirely distinct from countersigning a permit issued by another State,

The application in this case had been made by the petitioner for counter-signatures and evidently by Punjab State could not have countersigned any permit issued by the U. P. Government excepting for joint routes and in accordance with the agreements between the two Governments. The matter has now, in any case, been set at rest by the proviso newly added to sub-section (3) of section 63 of the Motor Vehicles Act, and we cannot now grant any direction or writ enjoining upon the State of Punjab to countersign a permit only on the basis that according to law at one time prevailing the procedure u/s 57 of the Act required the same. The proviso has set at rest the whole controversy and it is quite obvious that in the matter of counter-signatures on permits the procedure prescribed u/s 57 of the Act has not necessarily to be adopted.

(4) The petition has no merit and is accordingly dismissed. In view of the peculiar circumstances of the case and the fact that the law has been amended during the pendency of the petition, we make no order as to costs.

Grover, J.

(5) I agree.

(6) Petition dismissed.