
(2013) 04 P&H CK 0033
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 9595 of 2011

Kuldeep Singh

APPELLANT

Vs

S.T.A.T. Punjab and Others

RESPONDENT

Date of Decision : 25-04-2013

Acts Referred:

Citation : (2013) 2 PLR 817

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : P.S. Bawa, for the Appellant; Monica Chhibbar Sharma, D.A.G., Punjab, for the Respondent

Final Decision : Dismissed

Judgement

Augustine George Masih, J.—Petitioner has approached this Court praying for quashing of the order dated 1.4.2011 passed by the State Transport Appellate Tribunal, Punjab (Annexure P-2) rejecting the appeal of the petitioner being barred by limitation as also there being no merit in the same. Counsel for the petitioner submits that vide order dated 5.7.1997 passed by the State Transport Commissioner, Punjab, application of the petitioner for grant of one permit with four return trips daily to operate on Bassi-Bhadson via Bhumarsi route was rejected. Against the said rejection order, petitioner had preferred an appeal. The said appeal was dismissed by the Appellate Tribunal on the ground that the same was barred by limitation.

2. Counsel contends that in the light of the Full Bench judgment of this Court passed in Jagtar Singh Vs. The State Transport Appellate Tribunal and Others, decided on 30.1.2009 (Annexure P-3), the limitation would start from the date the order is conveyed to the petitioner or from the date when a constructive knowledge of the said order is said to have been obtained by the petitioner. In the present case, since the private operator, namely, Nabha Cooperative Society Ltd., Nabha-respondent No. 3 did not lift the permit, there was no occasion to the petitioner to get the constructive knowledge with regard to rejection of his

application by the State Transport Commissioner. Had respondent No. 3 lifted the permit and started operation, the principles as laid down in the judgment passed by this Court in Jagtar Singh's case (supra) with regard to the constructive knowledge of the order rejecting his application would be applicable. He, accordingly, contends that the rejection of the appeal on the question of limitation, thus, is not sustainable. His further contention is that once the State Transport Appellate Tribunal has come to a conclusion that the appeal of the petitioner is time barred, he could not have proceeded to decide the same on merits. In support of this contention, he places reliance upon the observations made by this Court in CWP No. 2127 of 2011 *Guru Anged Dev Bus Service Regd., Ludhiana v. State Transport Appellate Tribunal and others*, decided on 29.11.2011. He, accordingly, contends that the impugned order cannot sustain and deserves to be set aside. Respondent No. 3 has not come forward to contest the case.

3. On considering the submissions made by the counsel for the petitioner, I am of the considered view that the prayer made in the writ petition for setting aside the order passed by the State Transport Appellate Tribunal, Punjab cannot be accepted.

4. It is an admitted position that the order dated 5.7.1997 was passed by the State Transport Commissioner, Punjab, rejecting the application of the petitioner on the ground that the petitioner had absented himself at the time of hearing and accordingly an inference was drawn that the petitioner was not interested in pursuing the said application. Rejection of the application of the petitioner by the State Transport Commissioner was, therefore, quite justified. In any case, limitation for challenging the order dated 5.7.1997 was 30 days from the date of the information with regard to the decision on the application. The principle with regard to the period of limitation and its applicability has been duly laid down by this Court in Jagtar Singh's case (supra) wherein it has been held that even in case where there is no formal communication passed by the State or Regional Transport Authority, the period of limitation prescribed for filing the appeal would start running from the date the aggrieved party obtains actual or constructive knowledge of passing of the said order. In the present case, firstly the petitioner did not appear before the State Transport Commissioner at the time when the hearing on the applications were made. Although the permit was not lifted by respondent No. 3, who was allotted the same, the petitioner was required to know that there was no vehicle running on the permit in question. This projects that the petitioner was not interested in pursuing his claim before the Appellate Tribunal nor did he approach the Competent Authority to know the fate of his application prior to his filing the appeal. The explanation which has been given by the petitioner for filing the appeal after a delay, thus, has rightly been found to be without any basis and the principle of constructive knowledge of the rejection of the application of the petitioner has been rightly invoked against the petitioner for rejecting the appeal as time barred.

5. The second assertion of the counsel for the petitioner that once the appeal of the petitioner was rejected by the Tribunal on the question of delay, he could not have proceeded to decide the appeal on merits. Suffice it to say that apart from the delay, the merits also can be gone into by the Competent Court to a limited extent to verify the bonafides of the applicant as to whether such a remedy which is being availed of by him is with an intention to assert his claim as such or had he been lethargic and unconcerned with his right. The present is a case where the applicant did not bother to appear before the State Transport Commissioner when the applications for considering the claims for allotment of one permit with four return trips daily on Bassi-Bhadson via Bhumarsi route was being considered. The observations as made by this Court in CWP No. 2127 of 2011 cannot be said to be of general operation and would not be applicable to the case in hand. In view of the above, finding no merit in the present writ petition, the same stands dismissed.