

(1976) 05 RAJ CK 0008
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2997 of 1974

Laxmi Chand

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 05-05-1976

Acts Referred:

Limitation Act, 1963 — Section 5
Motor Vehicles Act, 1939 — Section 58, 64

Citation : AIR 1976 Raj 197 : (1976) RLW 303

Hon'ble Judges : D.P. Gupta, J

Bench : Single Bench

Advocate : B.L. Maheshwari, for the Appellant; R.R. Vyas and A.K. Mathur, Additional Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

D.P. Gupta, J.—The petitioner was the holder of a non-temporary stage carriage permit on Karauli--Narainpur--Tatwada route (hereinafter referred to as "the route"). The aforesaid permit was issued to him by the Regional Transport Authority, Jaipur (hereinafter referred to as "the R.T.A.") on August 20, 1968 and was valid upto August 19, 1971. It was thereafter renewed for a further period of three years i.e. upto August 19, 1974.

2. Under the first proviso to Sub-section (2) of Section 58 of the Motor Vehicles Act (hereinafter referred to as "the Act") an application for the renewal of a stage carriage permit is to be made at least 120 days before the date of its expiry. Under Sub-section (3) of the aforesaid section, the Regional Transport Authority is further authorised to entertain an application for renewal of a permit, which has been made not more than 15 days after the last date specified in the first proviso to Sub-section (2) of the aforesaid section. The petitioner submitted an application for the renewal of his stage carriage permit on June 15, 1974, which was late by 54 days, taking into consideration the limitation prescribed by the first proviso to Sub-section (2) of Section 58 of the Act. The R.T.A., therefore,

rejected the aforesaid renewal application of the petitioner as time barred, by its order dated June 24, 1974. The petitioner thereafter submitted a further application stating that he could not submit the renewal application earlier on account of his illness and prayed for condonation of the delay in filing the application for renewal of his permit. This request of the petitioner was also turned down by the R. T. A. by its order dated August 28, 1974 on the ground that delay beyond a period of 15 days from the last date as specified in the aforesaid proviso could not be condoned and the delay in excess thereof in submitting the application for renewal of a permit could not be compounded. The petitioner thereupon preferred a revision petition before the State Transport Appellate Tribunal (hereinafter referred to as "the Tribunal") against the rejection of his application for renewal of the permit and the refusal of the R. T. A. to condone the delay in filing the aforesaid renewal application. The aforesaid revision petition preferred by the petitioner was dismissed by the Tribunal by its order dated September 13, 1974. It is against this order that the present writ petition has been filed in this Court.

3. I have heard learned counsel for the petitioner. The only argument advanced by the learned counsel is that the delay in filing the application for renewal of the stage carriage permit of the petitioner could have been condoned by the R.T.A. and the Tribunal u/s 5 of the Limitation Act, 1963. Section 5 of the Limitation Act, which has been relied upon by the learned counsel for the petitioner, reads as under :

"Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code, of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period. Explanation--The fact that the appellant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section."

4. Thus u/s 5 of the Limitation Act "the Court" is empowered to admit any appeal or application filed beyond the prescribed period of limitation, in case the applicant satisfies "the Court" that he had sufficient cause for not preferring the appeal or making the application within the prescribed period. The provisions of Section 5 of the Limitation Act are confined to courts of law and they are not applicable to Tribunals. The R.T.A. or the Tribunal cannot be held to be a "court of law" in the ordinary sense of that term.

5. In *Town Municipal, Council, Athani Vs. The Presiding Officer, Labour Courts, Hubli and Others etc.*, it was held by their Lordships of the Supreme Court that Article 137 of the Limitation Act did not apply to proceedings u/s 33C(2) of the Industrial Disputes Act before an Industrial Tribunal or a Labour Court.

6. In *Nityananda, M. Joshi and Others Vs. Life Insurance Corporation of India and*

Others, the question raised was as to whether the provisions of Section 5 of the Limitation Act were applicable to the Tribunals such as Labour Court, constituted under the Industrial Disputes Act. In the aforesaid case *Nityananda, M. Joshi and Others Vs. Life Insurance Corporation of India and Others*, their Lordships of the Supreme Court made the following observations in this connection :

"Section 4 of the Limitation Act, 1963 provides for the contingency when the prescribed period of any application expires on a holiday and the only contingency contemplated is "when the court is closed". Again u/s 5 it is only a court which is enabled to admit an application after the prescribed period has expired if the court is satisfied that the applicant had sufficient cause for not preferring the application. It seems to us that the scheme of the Indian Limitation Act is that it only deals with applications to courts, and that the Labour Court is not a court within the Indian Limitation Act, 1963."

It is, therefore, absolutely clear that the provisions of Section 5 of the Limitation Act are applicable only to the appeals or applications presented before the "courts of law"" within the strict sense of that term, and the provisions of the aforesaid section cannot be invoked in the case of applications or appeals presented before the Tribunals, which are not courts of law, but are statutory bodies performing quasi-judicial functions.

7. In *Bando Banaji v. Bhaskar Balaji* AIR 1972 Mys 311 , a Division Bench of the Mysore High Court also relied upon the decision of their Lordships of the Supreme Court in *Nityananda, M. Joshi and Others Vs. Life Insurance Corporation of India and Others*, and held that the provisions of Section 5 of the Limitation Act could not be made applicable to the proceedings before the Tribunals constituted under the Mysore Land Reforms Act, 1961. I am in respectful agreement with the aforesaid view. There can thus be no doubt that the provisions of Section 5 of the Limitation Act are applicable to the proceedings before the courts of law and they cannot be invoked in case of appeals or applications presented before Tribunals constituted under the Motor Vehicles Act. In the present case the Tribunal, therefore, rightly refused to go into the question of the sufficiency of cause for the delay in presenting the application for renewal of the permit of the petitioner on merits, as Section 5 of the Limitation Act cannot be made applicable to such an application presented before the Regional Transport Authority. Sub-section (3) of Section 58 of the Act itself provides fifteen days" grace period during which the renewal application, even if late, could be entertained by the R.T.A. on showing good cause for delay. Thus, if an application for renewal of a permit is not submitted at least 105 days before the date of the expiry of the permit, the Regional Transport Authority has no jurisdiction to entertain such an application for renewal. Therefore, an application which is received by the R.T.A. not less than 105 days before the date of the expiry of the permit is bound to be rejected as time barred, and the R.T.A. has no authority under the law to entertain such a delayed application.

8. The State Transport Appellate Tribunal and the Regional Transport Authority,

Jaipur were in these circumstances, right in holding that the application of the petitioner for the renewal of his permit was time barred and in rejecting the same on the aforesaid ground learned counsel for the petitioner drew my attention to some of the orders passed by the R.T.A. in cases where the said Authority allowed renewal applications in respect of stage carriage permits, presented before it less than 105 days prior to the date of expiry of such permits and compounded the delay in making the renewal applications by imposing fines on such applicants for renewal of their permits. I must observe in this connection that any action on the part of the R.T.A. in condoning the delay of more than 15 days in presenting the applications for renewal of stage carriage permits beyond the period prescribed under the first proviso of Section 58 (2) or in compounding any such delay is obviously in derogation of the express provisions of law and such illegal action could not justify the condonation or compounding of delay in the case of the petitioner's renewal application. Such condonation or compounding of delay on the part of the R.T.A. in some other cases, in excess of the period of 15 days, which is permissible under Clause 3 of Section 58 of the Act, was clearly without jurisdiction and could not be considered as valid precedent in such matters.

9. In the result, the writ petition has no force and the same is, therefore, dismissed. However, the parties are left to bear their own costs.