

(1963) 01 PAT CK 0015

In the Patna High Court

Case No : Misc. Judicial Case No. 405 of 1962

Mahendra Kumar Tewary

APPELLANT

Vs

Chotanagpur Regional Transport Authority and Another

RESPONDENT

Date of Decision : 11-01-1963

Acts Referred:

Bihar Motor Vehicles Rules, 1940 — Rule 71
Limitation Act, 1963 — Section 12(2)
Motor Vehicles Act, 1939 — Section 60, 64

Citation : AIR 1963 Patna 406

Hon'ble Judges : V. Ramaswami, C.J;N.L. Untwalia, J

Bench : Division Bench

Advocate : Saptami Jha, for the Appellant; Additional Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

1. In this case the petitioner holds a permanent public carrier permit granted by the Chotanagpur Regional Transport Authority. A proceeding was drawn up against the petitioner u/s 60 of the Motor Vehicles Act for suspension of his permit on account of certain irregularities. The petitioner submitted an explanation on the 10th June, 1961. The explanation was not accepted by the Regional Transport Authority which ordered that the permit should be suspended for a period of of the year, The order of the Regional Transport Authority suspending the permit u/s 60 of the Motor Vehicles Act is dated the 13th September, 1961, but it was communicated to the petitioner by a letter dated the 3rd November, 1961, which actually reached him on the 20th November, 1961. The petitioner preferred an appeal to the appeal Board of the State Transport Authority on the 28th November, 1961, but the appeal has been dismissed by the Appeal Board on the ground that it is barred by limitation.

2. On behalf of the petitioner it is submitted that the order of the Appeal Board is erroneous in law and the petition of appeal filed on the 28th November, 1961,

was not barred by limitation. In support of this argument learned counsel for the petitioner referred to a decision of this High Court in *M.N. Sharma and Others Vs. State of Bihar and Others*, where it was pointed out that Section 64-A of the Motor Vehicles Act imposes a limit of thirty days for the presentation of an application u/s 64-A from the order of the State Transport Appellate Authority, but the language of Section 64-A must be read in the context of Section 12(2) of the Limitation Act which applied to the case by virtue of Section 29(2) of the Limitation Act. It was further pointed out that the words "the time requisite for obtaining a copy" in Section 12 of the Limitation Act were not inapplicable in those cases where the appellant was not required to obtain a copy at his own expense by applying for it but was entitled by statute to get a copy from the authority or authorities concerned within a certain time. In a case of that description the time taken by the authorities concerned to supply the copy would legitimately be "time required for obtaining the copy", so far as the appellant is concerned, and he will be entitled to the exclusion u/s 12(2) of the Limitation Act in the matter of computation of the period of limitation. In our opinion the principle of this case governs the present case also. We should make a reference in this context to Rule 71 which provides that

"any person desiring to prefer an appeal against any such order of a Regional Transport Authority shall, within thirty days of the date of the order send or deliver to the Secretary of the State Transport Authority a memorandum in duplicate signed by the appellant setting forth concisely the grounds of objection to the order appealed from and shall be accompanied by a copy of the order."

It is also important to notice that Section 60, Sub-section (2), provides that

"where a transport authority cancels or suspends a permit, "or reduces the number or vehicles or the routes or area covered" by a permit it shall give to the holder in writing its reasons for the action taken."

In view of these statutory provisions and in view of the decision of this High Court in *M.N. Sharma and Others Vs. State of Bihar and Others*, it is manifest that the petition of appeal filed by the petitioner in this case to the Appeal Board of the State Transport Authority on the 28th November, 1961, is not barred by limitation and the order of dismissal of the appeal by the Appeal Board of the State Transport Authority, dated the 2nd April, 1962, is vitiated in law.

3. Acting, therefore, in exercise of our authority under Article 227 of the Constitution, we set aside the order of the Appeal Board of the State Transport Authority dated the 2nd April, 1962, and order that the appeal should go back on remand to the Appeal Board of the State Transport Authority for rehearing the appeal of the petitioner and disposing of it in accordance with law.

4. We accordingly allow this application. There will be no order as to costs.