

(2018) 10 P&H CK 0254

In the Punjab And Haryana At Chandigarh

Case No : Letter Petent Appeal No.850 Of 2016 (O&M)

Manjit Singh

APPELLANT

Vs

State Transport Appellate Tribunal Punjab And Ors

RESPONDENT

Date of Decision : 08-10-2018

Acts Referred:

Motor Vehicles Act, 1988 — Section 81, 81(2), 81(3)
Limitation Act, 1963 — Section 5

Citation : (2018) 10 P&H CK 0254

Hon'ble Judges : Ajay Kumar Mittal, J;Avneesh Jhingan, J

Bench : Division Bench

Advocate : Rohit Kapoor, Harmandeep Kaur, Sandeep Vermani

Final Decision : Dismissed

Judgement

1. Challenge in this Letters Patent Appeal is to the judgment dated 12.4.2016 passed by the learned Single Judge whereby CWP-6083-2016 filed by the appellant was dismissed.

2. The facts necessary for adjudication of the present appeal as narrated therein may be noticed. The appellant is a small operator having only one bus

and one stage carriage permit No. 192/RK/75 for plying three return trips on a short distance route of Ludhiana-Sidhwan Bet via Hambran. The said

stage carriage permit was valid upto 21.10.2013. For renewal of the permit, the appellant had to apply in terms of Section 81(2) of the Motor Vehicles

Act, 1988 (in short 'the Act') within 15 days. However, the appellant had moved an application for renewal of the permit after one year and two

months of the expiry of the permit. His application was considered by respondent No.3 on the basis of the minutes recorded in its meeting held on

10.2.2015 and was rejected vide order dated 10.2.2015

(Annexure P-3). The appeal of the appellant was also dismissed by respondent No.1 vide order dated 11.8.2015 (Annexure P-6). Accordingly, the

appellant filed CWP-6083-2016 challenging the orders (Annexures P-3 and P-6, respectively). The learned Single Judge vide order dated 12.4.2016

dismissed the said writ petition. Hence, the present Letters Patent Appeal.

3. We have heard learned counsel for the parties.

4. Admittedly, the stage carriage permit of the appellant was valid upto 21.10.2013. The appellant had to apply for renewal of the permit within 15

days of the expiry of the permit. However, the appellant had moved an application for renewal of the permit after one year and two months of the

expiry of the permit. The Transport authorities were required to deal with the application for renewal of the permit under the provisions of Section 81

of the Act. Section 81(3) of the Act provides that the Regional Transport Authority or the State Transport Authority, as the case may be, may

entertain an application for renewal of the permit after the last date specified in the sub section if it is satisfied that the applicant was prevented by

good and sufficient cause from making an application in the time specified. Since, the appellant failed to furnish any explanation for such a delay in

filing the application, respondent No.3 rejected the application. The appeal carried against the said rejection, was also dismissed by respondent No.1

holding that the appellant has failed to show any sufficient cause for not filing the application within the specified period. Further, this Court vide order

dated 12.4.2016 dismissed the writ petition holding that the appellant had failed to assign "sufficient cause" for the purpose of condonation of

delay in filing the application for renewal of the permit as even if it is presumed that the shop of the appellant was destroyed in a fire in October, 2012,

the permit which had expired on October, 2013, could have been applied by him within the prescribed time, i.e. 15 days before the expiry of the

permit. The learned Single Judge had noticed as under:-

"I have heard counsel for the petitioner and perused the record from which it is found that the petitioner has failed to assign "sufficient cause"

for the purpose of condonation of delay in filing the application for renewal of permit because even if it is presumed that the shop of the petitioner was

destroyed in a fire in October, 2012, the permit, which had expired in October, 2013, could have been applied by him within the prescribed time, i.e. 15

days before the expiry of the permit. The petitioner has also not placed on record any authentic document from which it can be presumed that he was

unable to pursue his remedy before the competent authority.â??

5. Further, the law of limitation has been enacted which is based on public policy so as to prescribe time limit for availing legal remedy for redressal of

the injury caused. The purpose behind enacting law of limitation is not to destroy the rights of the parties but to see that the uncertainty should not

prevail for unlimited period. The authorities/Courts are empowered to condone the delay where a party approaching the court belatedly shows

sufficient cause for not availing the remedy within the prescribed period. The meaning to be assigned to the expression â??sufficient causeâ??

occurring in Section 5 of the Limitation Act, 1963 should be such so as to do substantial justice between the parties. The existence of sufficient cause

depends upon facts of each case and no hard and fast rule can be applied in deciding such case.

6. The Hon'ble Apex Court in *Aroma Chemical Industries Ltd. v. Gujarat Industrial Development Corporation and another*, (2010) 5 SCC 459 and

R.B. Ramlingam v. R.B. Bhavaneshwari 2009(1) RCR (Civil) 892 had noticed that the courts should adopt liberal approach where delay is of short

period whereas the proof required should be strict where the delay is inordinate. Further, it was also observed that judgments dealing with the

condonation of delay may not lay down any standard or objective test but is purely an individualistic test. The court is required to examine while

adjudicating the matter relating to condonation of delay on exercising judicial discretion on individual facts involved therein. There does not exist any

exhaustive list constituting sufficient cause. The applicant is required to establish that inspite of acting with due care and caution, the delay had

occurred due to circumstances beyond his control and was inevitable.

7. Adverting to the factual matrix in this case, we do not find any merit in the appeal. The question regarding whether there is sufficient cause or not

depends upon each case and primarily is a question of fact to be considered taking into totality of events which had taken place in a particular case. In

the present case after appreciating the matter it cannot be said that there was sufficient cause for condonation of delay in filing the application for

renewal of permit. The plea of the appellant that the shop of the petitioner was

destroyed in a fire in October, 2012, even then the permit, which had expired in October, 2013, could have been applied by the appellant within the prescribed period, i.e. 15 days before the expiry of the permit. Such plea does not inspire confidence in the facts and circumstances of the present case.

8. In view of the above, finding no merit in the appeal, the same is hereby dismissed.