
(1995) 09 KAR CK 0056
In the Karnataka High Court
Case No : Writ Petition No. 27694 of 1995

N.S. Rama Rao

APPELLANT

Vs

Regional Transport Authority

RESPONDENT

Date of Decision : 04-09-1995

Acts Referred:

Motor Vehicles Act, 1988 — Section 89, 89 (b), 90

Citation : (1997) 1 ACC 130 : (1996) ILR (Kar) 117 : (1995) 5 KarLJ 293

Hon'ble Judges : Tirath S. Thakur, J

Bench : Single Bench

Advocate : S.V. Krishnaswamy, for the Appellant; N.P. Singri, HCGP, for the Respondent

Final Decision : Allowed

Judgement

Tirath S. Thakur, J

1. The petitioner filed an application before the Regional Transport Authority seeking variations in the conditions of a permit held by him by way of Revision of timings. This application was rejected by the Regional Transport Authority concerned in terms of a decision taken on 30th November, 1994 on the solitary ground that in terms of an earlier decision taken by the Authority on 31st of October, 1994, all applications pertaining to the grant of permits for the years 1993-94 and their variations were liable to be rejected.

2. Aggrieved, the petitioner filed a Revision before the Karnataka Transport Appellate Tribunal, who by its order dated 12th July, 1995, Annexure-B, to the Writ Petition dismissed the same holding that since the petitioner could have preferred an appeal against the impugned order passed by the Regional Transport Authority as per Section 89(b) of the Motor Vehicles Act, 1988 a Revision u/s 90 of the Act was not maintainable. Aggrieved by the aforesaid orders the petitioner has come up this Court in the present Writ Petition seeking a Writ of Certiorari quashing the said orders

3. I have heard Mr. Krishnaswamy, learned Counsel appearing for the petitioner and Mr. Singri, Government Advocate for the Respondents.

4. The short Question that falls for Consideration is whether an order refusing to grant variations in the conditions of a permit is appealable in terms of Section 89 of the Motor Vehicles Act, 1988. Section 89 may be extracted at this stage:-

Section 89: APPEALS:-

(1) Any person-

(a) aggrieved by the refusal of the State or a Regional Transport Authority to grant a permit, or by any condition attached to a permit granted to him or

(b) aggrieved by the revocation or suspension of the permit or by any variation of the conditions thereof, or

(c) aggrieved by the refusal to transfer the permit u/s 82, or

(d) aggrieved by the refusal of the State or a Regional Transport Authority to countersign a permit, or by any condition attached to such countersignature, or

(e) aggrieved by the refusal of renewal of a permit, or

(f) aggrieved by the refusal to grant permission u/s 83, or

(g) aggrieved by any other order which may be prescribed, may within the prescribed time and in the prescribed manner appeal to the State Transport Appellate Tribunal constituted under Sub-section (2), who shall, after giving such person and the original authority an opportunity of being heard, give a decision thereon which shall be final.

(2) xxx xxx xxx

(3) xxx xxx xxx

Explanation xxx xxx xxx",

5. A plain reading of the above provision makes it abundantly clear that the same envisages an appeal at the instance of a person aggrieved by the revocation or suspension of the permit or by "any variation of the conditions thereof". The expression "any variation of the conditions thereof" implies that it is only in cases where variation is actually ordered that such an order can possibly be questioned in Appeal under the provisions aforesaid. In other words, an order by which the grant of a variation in the conditions of a permit is refused is not, on a plain reading of the Section, appealable. This is clear even from the expressions used in Sub-clauses (c) (d) (e) and (f) of Section 89(1) which make orders of refusal to transfer a permit, refusal to countersign the permit, refusal to renew the permit and refusal to grant permission u/s 83 of the Act appealable. In other words wherever an order refusing a particular order prayed for by an individual was meant to be made appealable the Legislature has clearly made it so by

express words. In the case of variation of the conditions of the permit however, the refusal to grant such variation has not been made appealable. If the intention really was to make an order refusing the variations in the conditions of a permit appealable nothing prevented the Legislature from using the expression or "by grant or refusal of any variations of the conditions thereof" in Section 89(i)(b). This however is not the position. Any other view would in my opinion, amount to re-writing Section 89(1)(b). Consequently, the Tribunal was in error in holding that the impugned order passed by the Regional Transport Authority refusing to grant the variation in timings was actually appealable u/s 89(1)(b) of the Act aforesaid so as to make a revision u/s 90 of the Act, untenable.

6. In the result, this Writ Petition is allowed. The impugned order passed by the Tribunal is hereby quashed and the matter remitted back to the Tribunal for fresh disposal in accordance with law keeping in view the observations made herein above. In the circumstances of the case however, parties shall bear their own costs.