
(1998) 06 P&H CK 0018
In the Punjab And Haryana At Chandigarh
Case No : Letters Patent Appeal No. 5 of 1992

Patiala Bus Highways Pvt. Ltd.

APPELLANT

Vs

State Transport Appellate Tribunal and Others

RESPONDENT

Date of Decision : 30-06-1998

Acts Referred:

Motor Vehicles Act, 1939 — Section 47(1A)

Citation : AIR 1999 P&H 67 : (1999) 121 PLR 128 : (1998) 3 RCR(Civil) 453

Hon'ble Judges : N.C. Khichi, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : Baldev Kapoor and Ramesh Kumar, for the Appellant; G.S. Grewal, A.G., M.C. Berry, Q.A.G. and A.M. Punchhi, for the Respondent

Judgement

Jawahar Lal Gupta, J.—These four cases relate to the grant of stage carriage permits on the Patiala-Machhiwara route. A few facts as relevant for the decision of these cases may be noticed.

2. On June 8, 1986 the State Transport Commissioner invited applications for the grant of three regular stage carriage permits with three return trips on the Patiala-Machhiwara route. 25% of the permits were reserved for the category of Schedule Castes. A similar reservation had also made for the members of the Economically Weaker Sections of Society. Vide order dated December 30, 1988 the State Transport Commissioner granted two regular permits in favour of the Punjab Roadways. He rejected all the other applications. Resultantly, none of the applications was accepted in respect of the third permit. Aggrieved by the order of the State Transport Commissioner, three of the applicants filed separate appeals. Vide order dated December 11, 1990 the State Transport Appellate Tribunal decided these three appeals: He granted one permit with half return trip to the Patiala Bus Highways. He granted another permit with half return trip to the Amloh Bus Service. So far as the third contender viz. the United Bus Service was concerned, the claim was rejected.

3. Aggrieved by the order of the Appellate Tribunal the United Bus Service filed

Civil Writ Petition No. 3507 of 1991. It prayed that the orders passed by the State Transport Commissioner as well as the Appellate Tribunal be quashed. The Patiala Bus Highways and the Amloh Bus Service were impleaded as respondent Nos. 3 and 4. This writ petition was allowed by the learned Single Judge vide judgment dated November 28, 1991. It was held that the order passed by the Appellate Tribunal by which the appeal filed by the United Bus Service was rejected was illegal. Equally the orders granting the permits to respondents 3 and 4 were untenable. The learned Single Judge found that the writ petitioner viz. United Bus Service was entitled to the grant of permit reserved for the members of Scheduled Castes. Consequently, it was directed that the State Transport Commissioner shall sanction "one permit with one return trip on Patiala-Machhiwara via Khanna route to the petitioner". It is against these directions that respondents 3 and 4 have filed L.P.A. Nos. 8 of 1992 and 1636 of 1991 respectively.

4. Mr. Baldev Kapoor, learned counsel for the appellant L.P.A. No. 8 of 1992 has contended that the orders passed by the learned Single Judge are based on factually untenable assumption of facts. The action of the Tribunal in granting the permit to the appellant was in strict conformity with the provisions of Section 47 of the Motor Vehicles Act, 1939 (hereinafter referred to as the Act) and that the order had been wrongly set aside by the learned Single Judge. Still further, it was contended that the respondent-writ petitioner had already been granted a permit. Consequently, the State Transport Commissioner as well as the Appellate Tribunal were entitled to take the view that it was not necessary to grant more than one permit to the writ petitioner and that the other applicants should get the benefit of reservation. These arguments were adopted by Mr. Mahesh Grover who appeared for the appellant in L.P.A. No. 1036 of 1993.

5. The claim made on behalf of the appellants has been controverted by the learned counsel for the respondent-writ petitioner. It is submitted that a provision for reservation has been made in the Act so as to promote interest of Weaker Sections of the society and merely because the respondent had been granted one permit, the authorities were not justified in declining to consider its claim for the other permits in spite of the fact that there was a huge backlog of the permits reserved for the members of Scheduled Castes and Economically Weaker Sections. In fact, learned counsel went to the extent of contending that against the reserved quota, the eligibility and suitability of the applicants belonging to that class alone had to be considered. The claim could not have been compared with that of the other applicants. It was also contended that the parties were weighed on different scales and instead of giving the benefit of reservation to the respondent, it was treated in a discriminatory way and the claim was arbitrarily rejected.

6. The learned Single Judge has found as a fact that the quota of Scheduled Castes "is still lying vacant". This finding has not been challenged before us. In this situation, the short question that arises for consideration is -- was the claim

of the respondent rightly rejected by the authorities?

7. Section 47 (1-A) of the Act specifically requires the Government of a State to reserve "certain percentage of stage carriage permits for the Scheduled Castes and the Scheduled Tribes". Section 47 (1-C) further permits the Government to make reservation in favour of persons "belonging to Economically Weaker Section of the community.....". The obvious purpose of these provisions is to promote the interest of socially and educationally backward class of citizens and to help the Weaker Section of the society. It is intended to promote self-employment amongst these sections of the society.

8. It is the admitted position before us that in pursuance of these provisions the State Government has made reservation to the extent of 25% for the members of Scheduled Castes. A similar reservation has also been made for persons belonging to the Economically Weaker Section of the society. It has also not been disputed that the permits earmarked for these categories have not been fully allotted. That being so, the first question that arises for consideration is -- "Could the respondents have rejected the claim of the writ petitioner merely on the ground that a permit had already been allotted to it"? Admittedly, the respondent belongs to the category of Scheduled Castes. According to the learned counsel for the respondent there was a deficit of 59 permits which had been reserved for members of Scheduled Castes. In spite of that the claim of the respondent was rejected on the ground that a permit had already been granted to it.

9. It is, undoubtedly, correct that the primary consideration while considering applications for the grant of permits is the interest of the public. All transport services exist to help the passengers. The permits are granted to facilitate travel. But once an applicant is found to be eligible and there is nothing to indicate that it would not be able to provide an efficient service to the general public, the claim of a person/party belonging to the category of Scheduled Castes cannot be rejected merely on the ground that one permit had already been granted to it. It was urged on behalf of the appellant that the benefit of reservation should not be concentrated on a few hands. It should be broad based. There is no quarrel with the argument. If there are 25 permits reserved for members of Scheduled Castes and there are 30 applicants, the most suitable persons should be selected and granted the permits. However, if there are only 10 applicants and it is found that all the 10 applicants are in a position to provide efficient service, there shall be no impediment in the way of the competent authority in granting all the 25 permits to the 10 applicants. The permit shall not be denied merely on the ground that one permit has already been granted to a particular applicant. The primary consideration being the interest of the general public, the claims of the eligible applicants have to be considered in respect of all the permits which are reserved for a particular class.

10. In the present case it has not been shown that any one except the respondent belongs to the category of Scheduled Castes. No other person belonging to that class was before the Appellate Authority to stake its claim for

the grant of a permit. In this situation, the claim of the respondent should not have been rejected merely on the ground that another permit had been granted to it.

11. Still further a perusal of the order passed by the Tribunal shows that the claims of present appellants had been accepted on the ground that they were "alreadycovering the entire route". They had "the experience and knowledge of this route and giving complaint free service on this route.....".The fact that the appellant had a permit was not a disqualification for them. In this situation, it should not have been an excuse for declining the relief to the respondent.

12. It was urged on behalf of the appellants that a person who has already been operating on the route and is familiar therewith is in a better position to provide service. Specific reference was made to the provisions of Section 47 of the Act to indicate that the familiarity with the conditions of routes was one of the considerations while adjudging the contending claims of the applicants. It is, undoubtedly, so. However, in the present case it has to be remembered that the claims were being considered even though the quota reserved for the members of Scheduled Castes had not been completely granted to them. While doing so it was not even found that the respondent was not in a position to provide an efficient service. Still further, it was nobody's case that the respondent had not worked efficiently on the route for which a permit had been granted to it. In any event, since the respondent belongs to the category of Scheduled Castes and permits reserved for that category have yet to be granted, its claim should not have been rejected unless it was found that it was not in a position to provide efficient service. The fact, that the respondent had a permit is indicative of the fact that it had the resources. It was familiar with the job requirements and that it was in a position to provide efficient service.

13. Mr. Punchhi contended that there should have been no comparison between a member of the Scheduled Castes and the other applicants. For the purpose of this case, we do not consider it necessary to go into this argument. Suffice it to say that the ground on which the claim of the respondent was rejected was not tenable in the present case.

It is, further, contended on behalf of the appellants that a member of the Scheduled Castes who has been granted one permit should not be granted any further benefit of reservation. This contention cannot be sustained. Admittedly, according to the instructions issued by the State Government, the authorities could grant a maximum of five permits to a co-operative society or a firm constituted by the members of the Scheduled Castes at the relevant time. In the present case, the third respondent was, thus, entitled to be considered for the grant of five permits. Its claim for the grant of a second permit could not have been rejected merely because one permit had already been granted to it.

14. Mr. Mahesh Grover, learned counsel for the appellant also contended that any

instructions issued u/s 47-A of the Act cannot override the provisions of Section 47 of the Act. There is no quarrel with this proposition. However, in the present case it has not been shown that any instructions issued by the State Government have been used to override the provisions of Section 47 of the Act. In fact, there is no finding in any of the orders of the authorities that the respondents shall not be able to provide efficient service or that it does not have the means to take care of the travelling public.

15. No other point has been raised.

16. In view of the above, we find no ground to interfere with the view taken by the learned Single Judge. Both the appeals are consequently, dismissed. However, in the circumstances of the cases, there will be no order as to costs.

17. Civil Writ Petition Nos. 15415 of 1991 and 937 of 1992 have been filed by the parties whose applications had been rejected by the State Transport Commissioner. Mr. M.S. Sawhney, learned counsel for the petitioner in both the cases concedes that they had not filed any appeal against the orders of the State Transport Commissioner. Resultantly, the order passed by the State Transport Commissioner had attained finality. Learned counsel further submits that in view of the facts that the L. P. As have been dismissed, these writ petitions have been rendered infructuous. These are, accordingly, disposed of. No costs.