

(1988) 12 AHC CK 0006

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 25072 of 1988

Pawan Kumar

APPELLANT

Vs

Regional Transport Authority

RESPONDENT

Date of Decision : 13-12-1988

Acts Referred:

Citation : (1989) 1 AWC 470

Hon'ble Judges : R.M. Sahai, J;K.K. Birla, J

Bench : Division Bench

Advocate : C.P. Ghildyal, for the Appellant;

Final Decision : Dismissed

Judgement

R.M. Sahai, J.—This petition raises an important but interesting question of law as to if the Regional Transport Authority is bound to consider an application for granting permit even though the application filed in pursuance of notification increasing the strength was quashed by this Court.

2. Route in question is Atrauli-Amapur-Kasganj route. In 1984 strength of route was refixed and applications were invited for grant of permanent permits. The Petitioner did not apply. It appears the applications could not taken up due to litigations. In 1987 the State Government issued a notification increasing strength of every route proportionately depending on if any increase had been made in earlier years. It resulted in increase of strength of this route as well. And when applications were invited the Petitioner also applied. The notification however was quashed by this Court in Civil Misc. Writ Petition No. 14266 of 1987, and it was held that increase in strength of every route by notification was ultra vires. In November, 1988 the R.T.A. published a notice that the applications for grant of permit shall be taken up on 12th December, 1988. This notice does not mention any application filed in 1987. The Petitioner who was applicant of 1987 seeks a direction that the R.T.A. be directed to consider the application of Petitioner as well. Reliance is placed on the case of Smt. Nirmala v. Regional

Transport Authority 1985 ALJ 1095 and it is urged that the Court having interpreted Sub-section(3) of Section 47 and held that the applications are not against any particular vacancy and every application filed has to be taken into consideration the R.T.A. committed an error of law only because the application of the Petitioner was filed in 1987.

3. Ratio of the aforesaid decision does not entitle Petitioner to any relief. The basic fallacy in the argument is that it ignores that only those applications could be published which were subsisting or surviving. Once the notification issued on 25th March, 1987 which resulted in increase of strength in pursuance of which Petitioner made the application stood quashed the increase in strength was nullified. And all proceedings including the proceedings inviting applications for grant of permit and the filing of such applications were rendered nonest. They were not surviving. Therefore they could neither be published nor considered by R.T.A. Consequently R.T.A. did not commit any error in publishing the applications filed in 1987.

4. In the result the petition fails and is rejected.