

(1998) 03 MP CK 0039

In the Madhya Pradesh High Court

Case No : Writ Petition No. 1510 of 1997

Prem Narain Sharma

APPELLANT

Vs

State Transport Appellate Tribunal, Gwalior and Others

RESPONDENT

Date of Decision : 11-03-1998

Acts Referred:

Motor Vehicles Act, 1988 — Section 70

Citation : AIR 1998 MP 229 : (1998) 2 J LJ 110 : (1999) 1 MPLJ 185

Hon'ble Judges : Tej Shanker, J

Bench : Single Bench

Advocate : Arvind Dudawat, for the Appellant; J.P. Gupta, for the Respondent

Final Decision : Allowed

Judgement

Tej Shankar, J.

This petition under Articles 226 and 227 of the Constitution has been preferred by the petitioner Prem Narain for quashing the impugned order (Annex. P/9). He claimed that he was a small bus operator and was operating buses under the permit granted by the authorities concerned. He had applied for a Stage Carriage permit on the routes (1) Ashoknagar to Kadwaya via Saraskhedi, Isagarh, Gahora and Manethi for 2 R.T. daily and (2) Ashoknagar to Isagarh for one R.T. daily vide Annexure P/I. He had furnished all the certificates, documents and authenticated route map in compliance of Rule 72(3) of the M.P. Motor Vehicle Rules, 1994. He had deposited Rs. 500/- under Rule 145 of the M. P. Motor Vehicle Rules, 1994. The substance of the application (Annex. P/I) was notified on office notice board for inviting objections. M.P. State Road Transport Corporation filed formal objections. He was granted stage carriage permit vide order dated 27-8-97 (Vide Annexure P/2) for a period of five years i.e. up to 2-9-2002 (Annex. P/ 3). He started the operation under the said permit from 3-9-97. The respondents 3 and 4, who never filed any objection, filed a joint revision No. 1021/97 before the S.T.A.T. against the said order (Annex. P/2) and prayed for stay. The petitioner filed reply to the stay application vide Annex. P/8.

The revision petition was allowed by the S.T.A.T. after hearing the parties on 3-10-97 (Annex. P/9) holding that the routes for which permit was granted had three terminal and according to the definition given u/s 2(38) of the M.V. Act, no permit could be granted which had three terminus. This order has been challenged by the petitioner.

The contention of the learned counsel for the petitioner is that u/s 70 of the M.V. Act, an application for stage carriage permit can be made giving the particulars mentioned there in. The learned counsel drew my attention to Clause (a), which provides:

"the route or routes or the area or areas to which the application relates:"

He, therefore, contended that an application could be given for one route or more than one. In support of his contention, he also referred to form 48 column 6 i.e. the proforma of permit given in the Rules and contended that it also provides that a permit in respect of a stage carriage could be granted for more than one routes. It cannot be denied that there are always two terminus in a single route. The Tribunal committed grave error in allowing the revision petition. It set aside the order of the S.T.A.T. on the ground that in the present case there were three terminus.

The learned counsel for the respondents 3 and 4 vehemently argued that the petitioner did not comply with the provisions of Rule 145 of Madhya Pradesh Motor Vehicles Rules, 1994 inasmuch as separate amount had to be deposited for each permit and he had deposited only one amount. In support of his contention, he relied upon 1964 MPLJ 347, Azad Hind Motor Transport Co. Op. Society v. R.T.A. and 1964 MPLJ 754, Shiv Chand v. State T.A.A. He urged that the Tribunal committed an error in this regard ignoring the decision of the Division Bench of this Court. He also urged that the S.T.A.T. decided only one point and did not decide the other points raised. It was not considered that the frequency as is evident from Annexure R/7 filed by the respondents was not in public interest.

The main arguments advanced by the learned counsel for the parties show that the important question that needs consideration is as to whether one application could be given for two routes and whether the petitioner was required to pay different amounts for different permits. In order to consider the arguments advanced by the learned counsel for the parties, we have to look to the provision of Section 70 of the M.V. Act which makes a provision for application for stage carriage permit. The section relevant for our purpose runs as follows:

"70. Application for stage carriage permit--(1) An application for a permit in respect of a stage carriage (in this chapter referred to as a stage carriage permit) or as a reserve stage carriage shall, as far as may be, contain the following particulars, namely:

(a) the route or routes or the area or areas to which the application relates;

(b) xx xx xx xx xx

(c) xx xx xx xx xx (2) xx xx xx xx xx

The plain reading of the above provision shows that the words underlined by me above are very important. It clearly goes to show that an application for a permit can be moved for the route or routes. In other words, a single application for a single permit can be moved for one or more routes. It is settled law that while interpreting the statute or a document, nothing can be added or subtracted. The language has to be read as it stands. To my mind the words used in Section 70 above do not admit of any other interpretation except that one application can be moved for a permit with respect to single route or more routes or the area or areas to which the application related. In this view of the matter, the contention of the learned counsel for the respondents that a separate application ought to have been given for separate routes does not appear to be correct. The contention of the learned counsel, as pointed out earlier, is that the petitioner ought to have deposited separate amount. If we now see Rule 185 of the M.P. Motor Vehicles Rules, 1994, we find that it makes a provision for fee. At serial No. 1 in column No. 2, the provision made is "in respect of an application for grant or renewal of stage carriage/reserve stage carriage permit 500/ -. It clearly, therefore, means that the fee prescribed for an application for grant of renewal of stage carriage permit is Rs. 500/- when we read this provision with the provision of Section 70 of the M.V. Act, 1988, it becomes crystal clear that the fee provided in this Rule is for a single application and Section 70 enables the applicant to move a single application for route or routes. In this view of the matter, the contention of the learned counsel for the respondents that separate fee ought to have been for separate route is wholly incorrect. The learned counsel for the respondents has laid much emphasis upon the decision of the Division Bench, reported in 1964 MPLJ 754, Shiv Chand v. State Transport Appellate Authority. It appears to me that the learned Sr. Counsel, Shri J.P. Gupta, appearing for the respondents, completely ignored the facts of this case. A careful perusal of the facts show that in that case the Regional Transport Authority invited application for two stage carriage single trip permits for a certain route. Several applicants had applied for permits. The petitioner made two applications, each duly stamped for the two permits, whereas Madhya Bharat Roadways made only one application for the two permits and paid the prescribed fee in the shape of stamps for only one permit. The R.T.A. Gwalior selected the petitioner and the M.P.S. Road Transport Corporation as suitable operators and granted to each a single trip permit for the route. The petitioner appealed to the S.T.A.T. and the appeal was dismissed. The M.P.S.R.T.C. too appealed and the same was also dismissed by the same order. The petitioner feeling aggrieved thereby filed a writ petition in the High Court under Articles 226 and 227 of the Constitution and raised three submissions. We are not concerned with all the three submissions made therein. The relevant submission put forward in that case was that:

"The application was otherwise not valid because only one application was made for both permits and the fee prescribed was paid for only one permit."

The Court observed in para 5 :

"It is obvious, and is not disputed either, that a separate application had to be made for each permit and a separate fee as prescribed had to be paid therefor."

The submission made was that as the fee required for two permits had not been paid, there was no valid application at all and in support of this submission the other case relied upon by the learned counsel for the respondents i.e. 1964 MPLJ 347, Azad Hind Motor Transport Co-op. Society v. Regional Transport Authority, Indore was pressed into service. The learned Judges distinguished that case. It was observed in 1964 MPLJ 754 that :

"It was open to the transport authorities to allow the applicant to amend the application so as to make an application for one of the two permits and, notwithstanding the absence of a formal order to that effect, they should be regarded as having treated the application as substantially made for one of the two permits."

Thus the facts of this case are distinctly different from the facts of the case in hand. In the present case, the petitioner had moved an application for single permit with respect to two routes as permissible u/s 70 of the M.V. Act, as shown above. This authority, therefore, does not support the learned counsel at all. The learned counsel strenuously argued that this Court cannot go against the law laid down in this authority and in case this Court disagrees, a reference may be made to a Larger Bench. As said above, there is no question of any difference of opinion with respect to law laid down in this case because as pointed out, the facts are entirely different. There applications were invited for two stage carriage single permit and the petitioner made two applications whereas the Roadways made only one application for two permits. It is not the case here. Thus, there is no question of any disagreement with the law laid down by the Division Bench. As far as 1964 MPLJ 347 is concerned, I may mention that the facts of this case are also entirely different. There the question involved was as to whether under the Rule of deposit of fee was mandatory and the Division Bench of this Court held that the applicant must deposit requisite fee along with application and the deposit during pendency of an appeal filed by him, would not cure the initial defect in the application. It was held specifically that "the Rule makes it mandatory that the requisite fee should accompany the application and without the fee, any application made would be incomplete, defective and invalid." Here in the case in hand, the petitioner had applied by moving one application and had deposited the requisite fee. In this view, this case too does not help the learned counsel. Thus, the contention of the learned counsel for the respondents that the petitioner ought to have moved a separate application and paid a separate fee with respect to individual route is wholly incorrect and cannot be accepted. I, therefore, repel it.

The S.T.A.T. passed the order reversing the order passed by the R.T.A. on a single ground as mentioned in para 8 of its judgment. It has been observed that

in the present case, the permission was not granted in accordance with the provisions of Section 2(38) of the M.V. Act. Hence the permit in which there were three termines, could not be granted. This is the sole ground on which the revision petition was allowed. In this connection, we have to go through the provision of Section 2(38) which defines "route". It runs as follows :

" "route" means a line of travel which specified the highway which may be traversed by a motor vehicle between one terminus and another."

A route has two termines, it must be stated not only in the application but also in the permit. If we peruse the application (Annex. P/1), we find that the petitioner has complied with this provision. In this way, the observation of the S.T.A.T. on the basis of which the revision was allowed appears to be against the provision of law and wholly erroneous. The order passed on this basis must, therefore, be quashed.

Before parting with the matter, I may also mention the argument of the learned counsel for the respondents that the S.T.A.T. decided only one point and other points were not decided. He referred to the fact that it was not taken into consideration that the frequency was not in the public interest. A perusal of the order passed by the learned S.T.A.T. shows that in para 5, it has dealt with the objection relating to Rule 145 of the Rules, as referred to above and it did not agree with the present respondents. In para 6, the other objection pertaining to Rule 72(3) was considered, this objection has not been raised before me. Again in para 7, the S.T.A.T. has discussed the argument relating to frequency. It cannot, therefore, be said that the other arguments have not been taken into consideration by the S.T.A.T. I, therefore, find no substance in this contention of the respondents as well.

In view of what has been stated above, the impugned order, which has been passed by the S.T.A.T. against the provision of law has to be quashed and the petition is to be allowed. Consequently, the writ petition is allowed. The impugned order (Annex. P/9) is hereby quashed.