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(2008) 02 P&H CK 0265

In the Punjab And Haryana At Chandigarh

Ranjodh Bus Service Regd. — APPELLANT

Vs

The State Transport Appellate Tribunal and Others — RESPONDENT

Date of Decision : 05-02-2008

Acts Referred:
Constitution of India, 1950 — Article 226, 227

Citation : (2008) 2 PLR 40

Hon'ble Judges : Satish Kumar Mittal, J;Rakesh Kumar Garg, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—The petitioner has filed this petition under Article 226/227 of the Constitution of India for quashing the order dated 2.1.2004 passed by the State Transport Commissioner-cum-Regional Transport Authority, Punjab (respondent No. 2 herein) whereby the claim of the petitioner for grant of stage carriage permit to operate one return trip on Talwara-Ludhiana via Mukerian, Dasuya, Tanda, Bhogpur, Jalandhar, Phagwara, Phillaur route (hereinafter referred to as ''the route in question) has been declined and the same route was granted to Ravinder Singh and Jagrup Singh sons of Shingara Singh (respondent No. 5 herein); and the order dated 24.3.2006 whereby the appeal filed by the petitioner against the aforesaid order has been dismissed by the State Transport Appellate Tribunal.

2. In this case, undisputedly, the applications were invited for grant of three stage carriage permits to operate three return trips on the route in question vide notice dated 22.12.2002 published in the Motor Transport Gazette, Weekly, Chandigarh. In response to the said notice, 52 applicants, including the petitioner, applied for the grant of said carriage permits. The Regional Transport Authority decided to allot two permits to the existing operators and one permit to the new entrants. Further, as per the transport Scheme dated 9.8.1990 which was further modified on 21.10.1997, two stage carriage permits were to be allotted to the State Transport Undertaking because the entire portion of the

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route in question except the portion from Talwara to Mukerian falls on the National Highway. Since no State Transport Undertaking applied for the route in question, therefore, the Regional Transport Authority decided to allot all the three permits in question in favour of deserving private operators. After taking into consideration the claim of various persons, three applicants, namely, Kartar Bus Service Limited, Shankar Bhagwan Bus Service Private Limited and Shri Ravinder Singh and Jagrup Singh (respondent No. 5 herein) were granted permits on the route in question. Two applicants, namely, Kartar Bus Service Limited and Shanker Bhagwan Bus Service Private Limited were granted permits meant for existing operators and the third permit was granted to Shri Ravinder Singh and Jagrup Singh as new entrants.

3. The petitioner, who also claimed the aforesaid permit in the category of new entrants, feeling aggrieved against the grant of permit to Shri Ravinder Singh and Jagrup Singh, filed an appeal before the State Transport Appellate Tribunal. The said appeal was dismissed by the Tribunal vide order dated March 24, 2006. Hence, this petition.

4. Counsel for the petitioner made three fold submission. Firstly, that the petitioner was more meritorious than respondent No. 5. Secondly, that during the pendency of the present writ petition, respondent No. 5 has transferred the permit in question in favour of Jagjit Singh son of Jaspal Singh and Jaspal Singh son of Bachan Singh. Thirdly, that respondent No. 5 was wrongly treated as new entrant while granting the permit whereas they were already having some permits.

5. After hearing the counsel for the parties, we do not find any ground to interfere in the impugned order on the aforesaid grounds. Undisputedly, the petitioner-firm is having three partners. Two of the three partners are graduates, out of which, one is holding a conductor''s licence, while the third one is 10+2 agriculturist. On the other hand, Shri Ravinder Singh and Jagrup Singh (respondent No. 5), who jointly applied for the route in question, are having HTV driving licence. The Regional Transport Authority while taking into consideration the comparative merit, granted the permit in question in favour of Shri Ravinder Singh and Jagrup Singh (respondent No. 5). The appeal preferred against the said order has been dismissed by the Tribunal while observing as under:

Though the number of partners of appellant of Appeal No. 265/2004 is three and the number of members of respondent No. 4 is two, yet, that alone in my view cannot tilt the balance in favour of this appellant. Both the members of respondent No. 4 possess HTV driving licences where as none of the partners of this appellant does so. Therefore, permit has been rightly granted in favour of respondent No. 4 against this appellant.

6. We are of the opinion that both the authorities while taking into consideration the comparative merit of respondent No. 5 and the petitioner, granted the permit in question in favour of respondent No. 5. We do not find any ground to interfere

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in the writ jurisdiction on the said decision merely on the argument of the counsel for the petitioner that the petitioner is more meritorious than respondent No. 5.

7. Regarding the second contention of counsel for the petitioner, we are of the opinion that respondent No. 5 has transferred the permit in question to Jagjit Singh son of Jaspal Singh and Jaspal Singh son of Bachan Singh under the provisions of the Motor Vehicles Act. Under the said Act, there is no bar for transferring the permit to another person. The said transfer was made after inviting the objections. If the petitioner was aggrieved against the transfer order, he could have challenged the said order under the Act, but merely because respondent No. 5 has transferred the permit in accordance with law, it cannot be said that they were not eligible for grant of permit. As regards the third contention of the counsel for the petitioner is concerned that respondent No. 5 are not new entrants, the same cannot be considered as no such plea had been raised either before the Regional Transport Authority or State Transport Appellate Tribunal, and accordingly in absence of any material on the record, both the authorities below have rightly rejected the claim of the petitioner.

In view of the aforesaid, we find no merit in this petition and the same is hereby dismissed.

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