
(1957) 03 AHC CK 0044
In the Allahabad High Court
Case No : Special Appeal No. 10 of 1955

Ratan Lal Gupta

APPELLANT

Vs

State Transport Authority and Another

RESPONDENT

Date of Decision : 27-03-1957

Acts Referred:

Motor Vehicles Act, 1939 — Section 57, 59, 61, 64

Citation : AIR 1957 All 471 : (1957) 27 AWR 454

Hon'ble Judges : V. Bhargava, J; Randhir Singh, J

Bench : Division Bench

Advocate : N. Banerji, for the Appellant; B.K. Dhaon and B.N. Roy for No. 1 and Uma Shankar Srivastava, for No. 2, for the Respondent

Final Decision : Dismissed

Judgement

Randhir Singh, J

1. This is a special appeal from an order of a learned single Judge (in this case the Hon'ble the. Chief Justice) dismissing a petition for a writ made under Article 226 of the Constitution.

2. It appears that the applicant's father was one of the many applicants for grant of a permit for plying a stage carriage on the Muzaffarnagar-Bhopa-Bhakerheri route. The application for a permit made by Munna Lal was, however, not granted and a permit was granted to another man, Munna Lal then went up in appeal to the State Transport Authority. During the pendency of the appeal, however, Munna Lal expired and the appellant made an application for the substitution of his name in place of his deceased father. This application was rejected and the applicant filed the writ petition which was dismissed and which is now the subject-matter of the special appeal.

3. Originally there were two vacancies on the Muzaffarnagar-Bhopa-Bhakerheri route. At the time when the appeal was filed by Munna Lal against the refusal of a permit to him only one of the vacancies had been filled up. Subsequently,

however, the other vacancy was also filled up and a permit was granted to Qadam Singh. Munna Lal objected to the grant of a permit to Qadam Singh, but his objection was dismissed. He also went up in appeal against the grant of a permit to Qadam Singh and against the rejection of his objections. In this appeal also an application was made by the appellant for substitution on the death of his father Munna Lal and this application was also rejected. In the writ petition filed by the appellant the orders in both the appeals pending before the State Transport Authority Tribunal rejecting the appellant's prayer for substitution were challenged.

The learned Chief Justice, however, held that the right to obtain a permit was a personal right and did not survive on the death of the person who had originally applied for a permit and as such the appellant had no right of substitution. With regard to the other matter where the appeal was directed against the grant of a permit to Qadam Singh the period for which the permit had been granted to Qadam Singh had already expired and the prayer for grant of a relief concerning it in the writ petition had become infructuous.

4. The main contention on behalf of the appellant in this special appeal, however, is that Munna Lal had by making an application for grant of a permit to him acquired a valuable right which had passed to the present appellant in his capacity as the son and legal representative of Munna Lal, Reliance has been placed on the provisions of Sections 57 and 59 and 61 of the Motor Vehicles Act and it has been urged that since a permit holder's right to transfer his rights under the permit have been recognised by law under certain circumstances it should be held that such a right was transferable and heritable. In the present case, however, the appellant's father, Munna Lal, was not a permit holder.

He had merely applied for the grant of a permit and that application was refused. He did not, therefore, acquire the status of a permit-holder and did not have the status even when the appeal was pending. It cannot, therefore, be argued that Section 59 or 61 which relate only to transfer- or inheritance of the rights of a permit holder would apply to the case of the present appellant. We express no opinion as to whether the right of a permit holder is or is not heritable as the decision of this point is not material in this special appeal. So far as the right of a person only to make an application for the grant of a permit is concerned, there can be no doubt that such a right is neither transferable nor heritable and it does not survive on the death of the person who had originally made the application for the grant of a permit.

In fact the making of an application for the grant of a permit is not a right at all. If applications are invited for the grant of permits it is open to every body to make an application and a permit will be granted if the person applying for the grant of a permit is found to be a fit and proper person. There is, therefore, no right in the strict sense of the word which a person acquires merely by making an application for the grant of a permit. There was, therefore, nothing which the present appellant could inherit from his father in such a case. The view taken by

the learned Chief Justice appears, therefore, to us to be correct.

5. There is, therefore, no substance in this appeal and it is dismissed. We, however, make no order as to costs.