
(2012) 06 P&H CK 0034
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 11651 of 2012

Rohit Mahajan

APPELLANT

Vs

State Transport Appellate Tribunal, Punjab and Others

RESPONDENT

Date of Decision : 01-06-2012

Acts Referred:

Motor Vehicles Act, 1988 — Section 86, 89

Citation : (2012) 06 P&H CK 0034

Hon'ble Judges : Rajiv Narain Raina, J

Bench : Single Bench

Advocate : B.S. Sudan, for the Appellant;

Final Decision : Dismissed

Judgement

Rajiv Narain Raina, J.—The petitioner was successful in securing grant of stage carriage permit at a meeting dated 24.10.2001 held and presided over by the State Transport Commissioner, Punjab (for short "the STC") for considering grant of one stage carriage permit for plying three return trips daily on the Gurdaspur-Ghukla via Tibri Purana Shalla, Gunopur, Saidowal, Chak Sharif and Bhiani Mian Khan route of which notice was published in the Motor Transport Gazette Weekly, Chandigarh on 1.6.2001. Aggrieved by the order granting permit to the petitioner, respondent no.3 filed an appeal u/s 89 of the Motor Vehicles Act, 1988 (for short "the Act") before the State Transport Appellate Tribunal (for short "the STAT"). The appeal was dismissed on 17.1.2007 on the grounds of limitation as well as on merits. The petitioner was arrayed as respondent no.2 in the aforesaid appeal and was proceeded against ex-parte against the appellate order. The 3rd respondent preferred CWP No.2376 of 2007 before this Court. The order dated 17.1.2007 was set aside and the matter was remanded for fresh decision, in accordance with law. The appeal was allowed ex-parte vide order dated 23.8.2007. A direction was issued to the STC, Punjab that in case the present petitioner has not deposited taxes up to date against the permit granted in his favour, the permit may be cancelled after giving notice and the same be instead

granted to the 3rd respondent. Order dated 23.8.2007 in remand has been impugned in this petition filed on 31.5.2012. The Stage carriage permit granted to the petitioner has been cancelled and handed over to the 3rd respondent. It is pleaded that the STC did not serve notice on the petitioner, and therefore, cancellation of permit was arbitrary and against the principles of natural justice and consequently the grant of permit to the 3rd respondent was in utter disregard of law. Cancellation of permits is governed by Section 86 of the Act. Learned counsel for the petitioner submits that cancellation of permit in favour of the petitioner in appeal by the 3rd respondent against refusal of grant of permit to him is not an appealable order. Therefore, cancellation of permit has resulted in taking away the statutory right of appeal provided u/s 89 (b) of the Act. Sub Section (b) of Section 89 of the Act reads as follows:-

89: Appeal

(1) Any person:

(a) XXX

(b) Aggrieved by the revocation or suspension of the permit or by any variation of the conditions thereof, or

(c) to (g): XXX

may, within the prescribed time and in the prescribed manner, appeal to the State Transport Appellate Tribunal constituted under sub-section (2), who shall, after giving such person and the original authority an opportunity of being heard, give a decision thereon which shall be final.

There is a finding of fact recorded in the impugned order dated 23.8.2007 that the 2nd respondent, the present petitioner was a tax defaulter and owed a sum of Rs.5,95,328/-to the Government and was not operating on the route. The petitioner has not plied on the route nor paid taxes for the period September, 2004 onwards. If the petitioner has not been plying on the route in question having secured a stage carriage permit in 2001, I fail to see what relief can be granted to him in writ jurisdiction. The 3rd respondent was an applicant alongwith the petitioner in the meeting of the STC held on 24.10.2001 and was contesting the case in appeal u/s 89 of the Act. In the interest of the travelling public, the Presiding Officer, STAT, Punjab, Chandigarh thought it fit to cancel the stage carriage permit in favour of the petitioner and grant it to the appellant-third respondent herein. The discretion exercised by the STAT is within the bounds of its jurisdiction and within the four corners of the law. The petitioner is a defunct person qua the stage carriage permit by disuse. I do not see any infirmity in the order of the Tribunal warranting interference. Besides, the writ petition has been filed belatedly and suffers from delay and laches. I find no merit in this petition and accordingly dismiss it in limini.