

(2014) 10 RAJ CK 0086

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) Nos. 1254, 1255, 1256, 1257 and
1258/2009

Santaro Devi

APPELLANT

Vs

The State Transport Appellate Tribunal

RESPONDENT

Date of Decision : 08-10-2014

Acts Referred:

Motor Vehicles Act, 1988 — Section 89

Citation : (2014) 10 RAJ CK 0086

Hon'ble Judges : Sunil Ambwani, Acting C.J.; Veerender Singh Siradhana, J

Bench : Division Bench

Advocate : Gayatri Rathore, Advocate for the Appellant; Bharat Vyas and
Rajendra Prasad, AAG, Advocate for the Respondent

Judgement

1. We have heard learned counsel appearing for the parties.
2. In pursuance to an inter-State agreement between the State of Rajasthan and Haryana, dated 12.09.2008, for increasing the number of permits, applications were invited by the Regional Transport Authority making a publication in daily news paper. In pursuance to the advertisement, large number of persons applied. We are informed that there were 123 applications after excluding those applications which were received prior to the notification of agreement.
3. By an order dated 20.03.2009, Regional Transport Authority granted permits to Shri Radhey Shyam, Shri Kishan Lal, M/s. Deepak Transport Company, Shri Bharat Singh and Shri Subey Singh for the 5 increased permits under the Agreement for 10 single trips.
4. The application filed by Smt. Santaro Devi, appellant before us, was rejected on the ground that preference was to be given to those, who have 54 seater bus. The appellant had 52 seater bus as against the persons, named above, with 54 seater bus.
5. The appellant filed an appeal against the order under Section 89 of the Motor

Vehicle Act, 1988. Her appeal was reported to be delayed by 73 days. The delay was condoned by the State Transport Appellate Tribunal on 13.11.2009 on the ground that the reasons for rejection of the appellant's application were not given in the intimation dated 29.05.2009 of the order dated 18.05.2009. When the appellant approached the concerned clerk, she was told about the reasons on which her application was not allowed, and the names of 5 persons to whom permits were granted, on which, she applied for a certified copy of the order, which was given to her on 01.09.2009, on which the appeal was presented on 09.09.2009.

6. The State Transport Appellate Tribunal, in pursuance to the powers vested under Rule 5.44(2) of the Motor Vehicle Rules, 1990 (in short, "the Rules of 1990"), allowed the application for condonation of delay on 13.11.2009 and heard the appeal on the stay application. The stay order was passed on the same date i.e. 13.11.2009, on the ground that about 800 applications were received for 15 routes by the State Transport Appellate Tribunal on 18.05.2009. It was not possible to hear all the applications on the same day and thus, there was a good ground to grant interim stay.

7. The respondents filed writ petitions, in which interim orders were passed on 04.12.2009, staying the effect and operation of the order dated 13.11.2009.

8. These Special Appeals, arising out of the interim order dated 04.12.2009, were admitted, notices were issued, and interim orders were made staying the order under appeal.

9. We find that though interim order dated 04.12.2009 was stayed in these appeals on 04.01.2010, permits have not been issued to the respondents on the basis of some other interim orders passed on the applications given by other applicants challenging the order of the Regional Transport Authority dated 18.05.2009. It is admitted that permits have not been issued for increase of number of permits from 5 to 10 under the Agreement dated 12.09.2008.

10. Shri Mahendra Singh, private respondent, filed a Special Leave to Appeal (Civil) No. 2758/2010 against the interim order dated 04.01.2010 before the Supreme Court. The Special Leave Petition was dismissed on 05.02.2010 with following observations:-

"Special leave petitions are dismissed.

Having regard to the fact that the petitioner can seek vacation of the interim order or early disposal of the appeal before the High Court, we are sure that if such a request is made, the High Court will consider it expeditiously."

11. We find that despite the direction of the Supreme Court to expedite hearing of the Special Appeal on 05.02.2010, the appeals were not heard for one reason or other. On almost all the dates, either the parties took time, or on the arguments raised by them, the Court directed them to find out the fate of other pending matters.

12. Be that as it may, the benefit of increase in the number of permits from 5 to 10 on the inter-State route in pursuance to the agreement dated 12.09.2008, has remained illusive to the travelling public-causing inconvenience to them for last seven years. The litigation between the parties, both at Jodhpur and Jaipur, has not allowed the benefit of increase in the permits to the passengers. Both the parties are litigating over the matter and filing appeals, writ petitions and Special Appeals and by which, they have not allowed the appeals against the order of State Transport Appellate Tribunal, to be decided.

13. We are not satisfied with the submissions made by learned counsel appearing for the private respondents that since the order was communicated to the appellant, the limitation will start running from date of communication of the order. In our view, Rule 5.44(2) of the Rules of 1990, which provides for limitation of 30 days for filing an appeal, will start from the date when the reasons on which the application is rejected, are communicated. No effective appeal can be filed against the order until such reasons are communicated. The Sub-rule further provides that the appeal will be accompanied with a certified copy of the order.

14. In the present case, the certified copy of the order was made available to the appellant on 01.09.2009, and the appeal was filed on 09.09.2009. The State Transport Appellate Tribunal, therefore, did not commit any error of law in treating the appeal to have been filed within time.

15. Appeal No. 151/2009, in which the interim order was granted by the State Transport Appellate Tribunal on 13.11.2009, on account of which the increased permits have not been issued, is still pending.

16. We are not concerned with the writ petition, which may have been filed by applicants of other routes inasmuch as there were about 15 routes, on which the applications were considered by the State Transport Appellate Tribunal on 18.05.2009. The interim orders in those writ petitions do not have any bearing in the present matters. There were large number of applicants and that the stay order staying the operation of the order dated 13.11.2009, has to be considered qua those writ-petitioners for the reliefs they have sought in the respective writ petitions. There is no general order operating, by which the order of the State Transport Appellate Tribunal dated 18.05.2009, was stayed.

17. In view of above, both the learned counsel appearing for the appellant as well as private respondent, have agreed that the appeal No. 151/2009 be finally heard.

18. Considering the delay which has been caused in hearing the appeal on account of pendency of other writ petitions, we find it appropriate to vacate the interim order dated 13.11.2009, by which it was directed that permits in pursuance to the order of the State Transport Appellate Tribunal dated 18.05.2009, shall not be issued.

19. On the aforesaid discussion and directions, we expect that the Appeal No. 151/2009, filed by Smt. Santaro, will be decided expeditiously and in the meantime, permits may be issued to the 5 selected persons within two weeks to allow them to ply the vehicles on the route, subject to the decision in the appeal.

20. In view of this order, the writ petitions giving rise to these Special Appeals do not survive and the same stand dismissed.

21. All the Special Appeals are accordingly disposed of.

22. A copy of the judgment will be placed in all the connected files as well as the files of writ petitions.