

(2005) 05 RAJ CK 0070

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1962 of 2004

Shanker Lal Soni

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 09-05-2005

Acts Referred:

Railways Act, 1989 — Section 147

Citation : (2005) 3 RLW 1644

Hon'ble Judges : Shiv Kumar Sharma, J;K.S. Rathore, J

Bench : Division Bench

Advocate : Party in Person, for the Appellant; Manish Bhandari in DBCWP No. 1962/2004, Party in Person : C.K. Garg, K.K. Sharma, R.D. Rastogi, S. Kasliwal and Arvind Gupta, in DBCWP No. 7162/2004, for the Respondent

Judgement

K.S. Rathore, J.—Both the writ petitions have been filed by the petitioners claiming travelling concession while performing journey through Rajasthan State Roadways Transport Corporation (for short "the RSRTC"), Railway and Airways being the senior citizens.

2. The grievance of the petitioners is that the RSRTC, Railway and Airways is providing conditional concession to the senior citizens.

Concession in Airways:-

3. Airways provides concession to senior citizen if he applies for the ticket 7 days in advance and for return journey, the senior citizen have to stay minimum for two days at the destination then only they are eligible to get the concession for return journey.

4. On behalf of the Jet Airways, it is stated that the senior citizen can get the concession under the certain terms and conditions. As per the scheme, concession is permissible and applicable only on round trip and circle trip journies and this benefit can only be allowed to a senior citizen residing permanently in India and have completed the age of 65 years on the date of

commencement of journey with the condition of minimum stay of two nights at destination and such journey ticket must be purchased at least 7 days prior to departure. At the time of ticketing all sectors must be confirmed.

5. It is contended on behalf of the Indian Airlines that senior citizen concession of 50% was introduced by the Indian Airlines Ltd. w.e.f. 1st August, 1994. The concession was offered primarily for those senior citizens, who were leading a retired life and for whom travelling by other means of transport i.e., surface/train would have been relatively inconvenient. At the time of introduction of the concession, it was expected that the travel requirement of the senior citizens would normally be confined to visiting children or for some domestic emergencies.

6. With regard to condition of purchasing the ticket in advance, it is submitted that senior citizens are generally not pressed for time and they enjoy a leisurely pace of life and their travel requirements are often for the purpose and spending time with their children, therefore, there is nothing wrong by imposing the condition of purchasing the ticket 7 days in advance.

7. The Senior Citizen Concession Scheme is only applicable on round trip and circle trip journey. The benefit of such scheme can only be availed by the person, who resides in India and attained the age of 65 years. This condition is just and proper. So far as other conditions of purchasing the ticket 7 days in advance and for return ticket, condition of stay of two nights at destination are not reasonable and the same is discriminatory. In our considered opinion the condition of stay two nights at destination and purchasing the ticket 7 days in advance has unnecessarily been incorporated. Consequently, the Airways Authorities are directed to give concession to the senior citizens without stipulation of condition of purchasing the tickets 7 days in advance and stay of two nights at destination. However, this concession will not be applicable to the senior citizens, who perform commercial trip and fare of the journey is to be paid by the Corporate Sector.

Concession in Railways:-

8. Railway provides 30% concession to the senior citizens, which is only provided at Railway Reservation Counter or at Railway Ticketing Window, but the railway authorities do not give this concession to the senior citizens on payment of passenger fare for any transaction including payment for ticket, reservation, changing class of journey, extending journey etc.

9. It is not disputed that 30% concession is only provided to the senior citizens at the time of purchasing the ticket from the ticket window/ticket counter. The senior citizens are not eligible to get the concession on extension of journey and on change of class as per the policy of the railway.

10. As it is not disputed by the railway that they are providing 30% concession to senior citizens in railway fare at railway reservation counters or at railway ticketing window at Railway Station, but the same is not provided to the senior

citizens on change of class and on extension of journey. We are of the opinion that Railway should extend the benefit of concession to a senior citizen on changing class of journey, extension of journey etc. irrespective of the fact whether the transaction occurs at railway reservation counter or at railway ticketing window at Railway Station or in a Train during journey.

11. This Court took cognizance on the news item published in daily news paper Danik Bhaskar dated 2.3.2005 and passed the following order:-

12. In compliance of the order dated 4.3.2005 passed by this Court, learned counsel for the Railway submits that there is a Section 147 of the Railways Act, 1989 to take care the trespass, which reads as under:-

Trespass and refusal to desist from trespass:- (1) If any person enters upon or into any part of a railway without lawful authority, or having lawfully entered upon or into such part misuses such property or refuses to leave, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such punishment shall not be less than a fine of five hundred rupees.

(2) Any person referred to in Sub-section (1) may be removed from the railway by any railway servant or by any other person whom such railway servant may call to his aid.

13. It is also contended on behalf of the Railway that through wider publicity, the railway is making aware the public not to cross the railway track. They have also taken the steps viz. Manning more and more unmanned gates, persuading State Government to agree for building road over bridges in dense areas, manning gates round the clock where traffic is heavy, placing caution boards at two sides of the level crossings, asking train drivers for continuous whistling while approaching railway crossings, providing audio visual indication for road users on approach of the gates, providing rumble strips and caution boards on the approach of gates, interlocking of certain busy gates to stop trains, if gates are not in closed position, providing rail barriers at locations prone for trespassing, under the over bridges and both sides of railway gates. The Railway Protection Force also educating the public against the trespass and they are arresting the trespassers and the trespassers are being prosecuted for the charge of trespass.

14. We have also perused the affidavit submitted by the Railway Authority with regard to the accident occurred on 1.3.2005. The Railway Authority has submitted in its affidavit the details of Railway boundary wall/fencing of Baisgodam-Durgapura Section, the total length of Section is 7.24 km and the length of railway land boundary (both side) is 14.48 km and length of boundary well constructed by railway is 7220 mtr. The total length of section from Jaipur-

Kanakpura is 8.94 km and length of railway land boundary (both side) is 17.88 km and length of boundary wall constructed by railway is 167.05 mtr.

15. We have also examined the plan showing the details of railway land boundary submitted by the Railway Authorities. Admittedly, the railway tracks which passes through the densely populated area has not been protected by boundary wall/fencing. The accident which took place on 1.3.2005 was on the Jaipur-Kanakpura Section. It appears that total length of Section is 8.94 km. and the boundary wall has been constructed only 167.05 mtr. In any case, the railway authorities are not able to convince the Court as to why they are not constructing the boundary wall and fencing at least on both the sides of the railway track which passes through the densely populated-area of Jaipur City. The existing boundary wall which has been constructed by the railway on both the sides of the railway track is only in small portion. Since there is no boundary wall/fencing on both the sides of the railway track, therefore, four ill-fated children met with the accident on 1.3.2005. In view of this fact, to protect the life of the innocent public, we deem it appropriate to direct the railway authorities either to construct the boundary wall on both the sides of the railway track immediately, but in any case not beyond the period of three months. The Railway Authorities are further directed to give due publicity and to make the public aware regarding consequence of crossing of railway tracks and the Railway Protection Force should also be activated to prevent such crossings. The Railway Authorities are also directed to provide retiring room with Bathroom, W.C. For senior citizens at Gandhi Nagar Railway Station.

Concession in RSRTC

16. Concession to the senior citizens is provided by the RSRTC except Delux, Semi Delux, AC Coach and Sleeper Coach Buses.

17. It is given out on behalf of the RSRTC that as per the policy decision, the concession is not being given in Delux, Semi Delux, AC Coach, Sleeper Coach and the senior citizens cannot claim concession in the aforesaid classes as a matter of right.

18. It is not disputed that senior citizens are being given concession of 30% in fare subject to condition that the senior citizen has attained the age of 65 years and for the purpose of getting concession, he has to carry the proof of age i.e., ration card, driving license, passport pen card and identity card issued by the election commission. So far as the condition imposed by the RSRTC that such concession to the senior citizens can only be provided in ordinary buses not in Delux, Semi Delux, AC Coach and Sleeper Coach, Volvo Coaches, which per se appears to be unnecessary, unwarranted, unreasonable and discriminatory, we consider it appropriate to direct the RSRTC to provide concession to senior citizens even in Delux, Semi Delux, AC Coach, Sleeper Coach & Volvo Coach.

19. With the aforesaid observations and directions, the writ petitions stands disposed of.