
(1991) 11 DEL CK 0060

In the Delhi High Court

Case No : Civil Writ Appeal No. 2907 of 1990

Thakkar Travels Bureau

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 07-11-1991

Acts Referred:

Citation : (1991) 1 DRJ 146 Supp

Hon'ble Judges : P.K. Bahri, J;A.B. Saharya, J

Bench : Division Bench

Advocate : A.K. Sinha and Raman Kapur, for the Appellant;

Judgement

P.K. Bahri, J.

(1) Rule D.B.

(2) The matter is taken up for disposal straight-away.

(3) By this petition under Article 226 of the Constitution of India, the petitioner has challenged order dated 21st of June 1989 refusing to renew its license to act as Rail Travellers" Service Agent, as also the appellate order dated 6th of May 1991 confirming the same.

(4) Grant and renewal of the license is governed by the Rail Travellers" Service Agents Rules, 1985 (hereinafter referred to as the Rules). Rule 4 provides for issue of a license. Rule 5 lays down conditions on which it may be granted. Rule 6 empowers the Competent Authority to cancel, at any time, the license for violation of any of the conditions The proviso to this Rule prohibits the exercise of this power unless an opportunity to show cause is given to the Agent. Rule 7 stipulates that a license shall, unless the Competent Authority, for reasons to be recorded in writing, otherwise decides in any case, be renewed for three years and shall be so renewable from time to time Rule 9 envisages appeal against every order of the Competent Authority.

(5) The license was granted to the petitioner on 19th of May 1986. It was valid

till 18th of May 1989. Before its expiry on 1st of May 1989, the petitioner applied for renewal of the license. By a notice dated 17th of April 1989, however, Deputy Chief Commercial Superintendent, Northern Railway, in the exercise of powers conferred by Clause (c) of Sub-section (1) of Section 4 of the Indian Railways Act, 1890 and under Rule 6, called upon the petitioner to show cause why its license may not be cancelled for the alleged violation of Conditions (v) and (x) of Rule 5 on the grounds, inter alia, that it was operating from a kitchen; that it was indulging in irregularities such as improper maintenance of registers and non-display of service charges. The petitioner gave a detailed reply dated 12th of May 1989. By the impugned communication dated 21st of June 1989, the petitioner was informed that without prejudice to any other action, "Competent Authority after careful consideration of the matter has decided not to renew the license..." The petitioner preferred an appeal against it which was dismissed by the order dated 6th of February 1991. The General Manager, Northern Railway who decided the appeal dealt with various grounds taken by the petitioner but did not find any merit in the same.

(6) The appellate order records that it was found that the petitioner had indulged in the irregularities as alleged in the show cause notice and that the Competent Authority "after careful consideration of the matter and after recording the reasons in writing decided not to renew the license which had expired on 19.05.89".

(7) The petitioner has challenged the original order as well as the appellate order on the short ground that the Competent Authority did not communicate to the petitioner the reasons for rejection of its request for renewal of the license.

(8) The impugned communication of decision not to renew the license does not disclose any reasons for the same. Bare perusal of the appellate order also shows that this ground has not been dealt with. All that is said is that the alleged irregularities were found and that the Competent Authority ""after recording the reasons in writing decided not to renew the license". Even assuming that the Competent Authority had recorded the reasons in writing, that is not enough. The reasons must be communicated to the agent. This was not done. The appellate order, in these circumstances, does not cure the inherent defect in the Competent Authority's order.

(9) Learned counsel for the respondents contends that perusal of the grounds of appeal preferred by the petitioner against the order of the Competent Authority shows that it was aware of the reasons. We have perused the memorandum of appeal. We find nothing stated in it to support this plea.

(10) In the case of M/s Junta Travels v. Union of India Cwp No. 409/89, by a judgment dated 18th of January 1990, while dealing with the same set of Rules, a Single Judge of this Court set aside a similar order of termination of license without giving reason. It was held. In view of Rules that any order of cancellation of a license made by the Competent Authority is of a quasi-judicial nature, it is

subject to an appeal and that reasons in support of such an order must be communicated to the aggrieved person so as to enable him to effectively exercise his right of appeal. We are informed that Letters Patent Appeal against that order was dismissed and the Single Judge's judgment has become final. We endorse the principles laid down in that case.

(11) Consequently, we quash the impugned communication dated 21st of June 1989 refusing renewal of the petitioner's license as well as the appellate order dated 6th of May 1991 confirming the same. Further, in view of the provisions made in Rule 7, we declare that the petitioner's license stands renewed up to 18th of May 1992.

(12) The Rule is made absolute and "the writ petition is, accordingly, allowed. No costs.