

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 19.12.2013

+ W.P.(C) 7042/2013

NATIONAL INDUSTRIAL TRAINING CENTRE..... Petitioner

Through: Mr G.S. Suhag, Adv.

versus

GOVT. OF NCT OF DELHI & ORS Respondents

Through: Mr Rajat Malhotra, Adv for
respondents 1 and 4

Ms Avnish Ahlawat and Mr Latika
Choudhary, Adv for respondents 2 and 3

CORAM:

HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (Oral)

In exercise of the powers conferred by Section 45(2)(d) and Section 19(1)(d) of the Road Transport Corporation Act, 1950 read with Delhi Road Transport Laws (Amendment) Act, 1971, Delhi Transport Corporation, with the previous sanction of the Central Government made Regulations known as Delhi Transport Corporation (Free and Concessional Passes) Regulations, 1985. The aforesaid Regulations, to the extent they are relevant for the purpose of this writ petition, read as under:-

“5. Student Concession Passes:

These passes shall be available to the bonafide students of education institutions in Delhi, recognized by the following:-

- (i) Universities set up in Delhi by the Act of Parliaments.
- (ii) Central Government, Delhi Administration and Municipal Corporation of Delhi.
- (iii) Mentally retarded students who are receiving guidance in the Institutes run by the Government, Delhi Administration, local bodies or by the Societies aided by the Government.

(b) The various types of student concessional passes that shall be available to the students are as under:-

- (i) Destination (Monthly): These passes shall be available to the students @ 30 single fares per pass subject to maximum limit fixed by the DTC Board with the prior approval of the Central Government.
- (ii) All Route (Monthly/Quarterly): These passes shall be available to the students at the rate fixed by the Corporation from time to time with prior approval of the Central Government.
- (iv) Students of correspondence courses shall be entitled to student destination monthly concessional passes only.”

2. The Board of Delhi Transport Corporation, in its meeting held on 10.05.2002 passed the following resolution:-

“The Board, after discussions and in view of the position explained in the agenda note, resolved to repeal the provisions made in the Delhi Transport Corporation (Free & Concessional Passes) Regulations, 1985 vide Para 3 (v) (regarding concessional pass facility for disabled persons and/or their attendant), Para 3 (vii) (regarding free travel facility for freedom fighters, War Widows, National Award Winners and Sports Persons), Para 5 (regarding Students Concessional Passes), Para 6 (regarding Police Concessional Passes) and Para 7 (regarding Press Concessional Passes) and provision for concessional travel facility extended to residents of resettlement colonies and senior citizens vide OM Nos.TR/1/FS(10)/79/2/26 and TR/1/FS(10)/97/2398 dated 19.2.1979 & 15.7.1997 respectively and the matter be referred to the Govt. of NCT of Delhi for its approval as required under Section 19(m) of the RTC Act, 1950.

It was also decided that reference to the GNCTD will be comprehensive giving details of concessions granted from time to time by the Government and the DTC with the approval of the Government. It was further decided that DTC shall not henceforth grant any concessional travel facility of its own except the issue of normal regular monthly passes based on commercial considerations.

The Board directed that pending the government decisions, the DTC would continue to grant such passes on ad-hoc basis

and continue the existing passes till new orders are issued ensuring that there is no harassment to the affected categories. The government will be informed accordingly.”

In its meeting held on 03.10.2006, the DTC Board, inter alia, passed the following Resolution:

(v) Limiting the concessional bus passes (of Rs. 12.50 p.m. for all routes/destination and Rs 55/- p.m. GLS passes) to the existing institutes without further addition till Government decided the matter.

(vi) Action as per the Board decision on issues 1 to 5 be implemented in anticipation of approval from Govt. of NCT of Delhi under 19(2) of the RTC Act, 1950.”

3. The petitioner before this Court is an Industrial Training Centre, affiliated to the Government of India and Government of NCT of Delhi since 2003, for conducting Paramedical & General Sector Trades. The case of the petitioner is that it is an institution in terms of the para 5 of the aforesaid Regulations and, therefore, its students are entitled to concessional bus passes, in terms of the said Regulation.

Since the students of the petitioner-institute have not been provided concessional passes in terms of the aforesaid Regulations, the petitioner is before this Court, seeking the following relief:-

“(a) Issue a Writ of Mandamus or any other Writ, directing the respondent to extend the

facility of concessional bus facility to the students of the petitioner institute on the applicable concessional rates.”

4. In their counter-affidavit, the respondents 2 and 3, i.e., Delhi Transport Corporation and its Senior Manager (Traffic) have, *inter alia*, stated that DTC issued around 6.5 lakh concessional/free passes in a year, out of which around 4 lakh passes are issued to students alone. These students are allowed not only to travel in all DTC buses, but also in University Special which are run by DTC exclusively for them. The majority of the students, according to the respondents, travel in DTC passes since these buses are not available in Private Stage Carriage Buses and as a result utilization of buses by the students is more than utilization by other bus holders.

It is further stated in the counter-affidavit that Public Grievances Commission had issued advice to DTC to issue concessional bus passes to all students covered under the 1985 Regulations, but DTC Board did not agree to the said advice, since every concessional pass causes revenue loss of about Rs 700/- per month, which DTC cannot bear unless and until it is fully reimbursed by the concerned private college or the Government. The issue was accordingly referred to Government of NCT of Delhi vide letter dated 15.02.2013, but, the Government has

not so far agreed to bear the full cost of concession. It is further stated that since DTC Board has decided not to extend the aforesaid facility to new private institutions like the petitioner before this Court, the concessional bus passes cannot be issued to the students of the petitioner-institute.

5. As noted earlier, the 1985 Regulations were framed by Delhi Transport Corporation in exercise of its statutory powers and that too with the previous sanction of the Central Government. Therefore, no amendment to the aforesaid Regulations can be carried out by Delhi Transport Corporation only with the previous approval of the said Government. Section 45 of the Road Transport Corporation Act stands amended by Act 4 of 2005 so as to replace the expression “Central Government” by the expression “State Government”. As a result, Delhi Transport Corporation can now amend the aforesaid Regulations with the previous sanction of the State Government. Admittedly, no sanction has so far been accorded by the Government of NCT of Delhi to the amendments, in terms of the Resolutions passed by DTC Board on 10.05.2002 and on 03.10.2006. In fact, the Government of NCT of Delhi vide letter dated 20.06.2012, informed DTC of the decision of the Government that it should not deny issuance of the students

concessional passes to the students of any institution referred in para 5 of the aforesaid Regulations, as it would amount to discrimination against the institutions which came up after a certain date. DTC was requested to do the needful immediately under intimation to the public grievance cell. The aforesaid decision of the Government came to be conveyed to the DTC in view of the order passed by the Public Grievance Commission on 25.04.2012, which has already been adverted to in the counter-affidavit of the respondent. This was followed by a communication dated 02.01.2012, addressed to the Chairman/Managing Director of DTC, reiterating therein the earlier decision of the Government conveyed vide letter dated 20.06.2012 to issue students concessional passes to the students of all institutions referred in para 5 of the aforesaid Regulations.

6. On receipt of the aforesaid decision from the Government, the DTC Board considered the matter in its meeting held on 16.10.2012 and decided that the issue relating to release of 100% subsidy on students concessional passes be taken up with the Government and till that time, the decision of the Board should continue. The Government of Delhi was accordingly requested to convey approval of the State Government for releasing 100% subsidy of the cost of concession against student

concessional passes so as to enable DTC to comply with the directions of the Grievance Cell.

7. It would thus be seen that the Government of NCT of Delhi has taken a clear unequivocal stand that the students belonging to the categories covered under Regulation 5 of 1985 Regulations are entitled to issue of the aforesaid concessional passes, irrespective of the date on which the institutions in which they are studying was established. So long as the Regulations of 1985 are not amended by Delhi Transport Corporation with the previous sanction of the Government of NCT of Delhi, it is bound by the said Regulations and cannot deny concessional passes to students belonging to any of the categories covered under Regulation 5 of the aforesaid Regulations.

8. Even otherwise, it would be wholly arbitrary and violative of Article 14 of the Constitution to deny the facility of concessional passes to the students of the recognized institutes, which were set up after a particular date, while continuing to make them available to the students of the institutes which had been set up before that date. It is not as if the DTC withdrew this facility, from all the students, admitted up to a particular date, irrespective of the institute in which they were studying. The Resolution of the DTC links issue of passes to the date of

establishment of the institute, and not to the date of taking admission in a recognized institute. As a result, the students admitted even in the year 2013, in an institute set up on or before the cut off date will get the passes, whereas students admitted either in 2013 or earlier, will not get this facility, if their institute was set up after the cut off date. There is no reasonable classification between the students, admitted in the same year, in the institutes set up before the cut off date and the institutes set up after the cut off date. The resolutions of DTC, as rightly pointed out by the Government are discriminatory. This is yet another reason, why the facility of concessional passes cannot be denied to the students of the petitioner-institute.

9. A careful perusal of Regulation 5 would show that bona fide students of any educational institution which is recognized by the Central Government, Delhi Administration or Municipal Corporation of Delhi are entitled to issue of the concessional passes. The petitioners have placed on record a communication dated 31.12.2003, issued by the Government of India, Ministry of Labour, Directorate General of Employment and Training to the State Directors/U.T. Administrators, stating therein that the said Directorate General had scrutinized the Standing Committee Inspection Reports, Departmental Inspection

Reports and Supplementary Explanation reports forwarded by them and had put up the same before a sub-Committee of National Council for Vocational Training (NCVT) dealing with affiliation. The Committee, after examining various affiliation cases in its meeting held on 30.12.20013 accorded approval in deserving cases. A copy of the statement containing the names of ITIs and ITCs, trades, units in respect of a particular State, which had been approved/rejected was enclosed to the said communication sent by the Government of India. The petitioner-institute is mentioned at serial No. 3 in the aforesaid enclosure, against State of Delhi. Thus, the petitioner-institute having been affiliated to the Government of NCT, its students are clearly covered under Regulation 5 of the 1985 Regulations. Consequently, DTC cannot deny concessional passes to the students of the petitioner-institute and all other students of institutes who are covered by the aforesaid Regulation.

10. For the reasons stated hereinabove, the writ petition is allowed with a direction to the respondent-DTC to extend facility of concessional bus passes to the bona fide students of the petitioner-institute within a period of four weeks from today subject to the

completion of the necessary formalities in this regard.

Dasti under the signature of Court Master.

V.K. JAIN, J

DECEMBER 19, 2013
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