

**IN THE COURT OF PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

-:-

C.W.P No. 26113 of 2015

Date of Decision: 15.12.2015.

Shakti Coop Trpt. Society Ltd. Malout

.....Petitioner

Versus

State Transport Appellate Tribunal, Punjab & Ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL.

Present:- Mr.P.S.Bawa, Advocate, for the petitioner.

DEEPAK SIBAL, J

In the present petition challenge is made to the order dated 22.07.2015 (Annexure P/2) passed by the State Transport Appellate Tribunal, Punjab (hereinafter referred to as 'the Tribunal') as also to the order dated 17.02.2003 (Annexure P/1) passed by the Tribunal.

Few relevant facts, which require to be noticed for adjudication of the issues raised in the present petition are that in response to a publication dated 15.08.2002 the petitioner along with others made an application for grant of route permit for the route- Abohar to Chandigarh via Malout-Giddarbaha-Bhatinda-Rampura-Barnala-Sangrur-Bhawanigarh-Patiala-Rujpura. Through order dated 17.02.2003, the petitioner's application was considered and rejected. The petitioner challenged the aforesaid order dated 17.02.2003 by way of an appeal under Section 89 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The appeal was instituted on 13.08.2014 i.e. after a delay of about 11 ½ years and the same was dismissed by the Tribunal being time barred by holding as under:-

“ I have considered the aforesaid arguments and gone through the records. The present appeal filed by the appellant is liable to be set aside on the ground of limitation. As per Rule 89 of the Punjab Motor Vehicle Act 1989 (hereinafter called as 'the rules'), the period of limitation to file an appeal against the order of State Regional Transport Authority is 30 days on receipt of the order. The Hon'ble Full Bench of Punjab & Haryana High Court in “Jagtar Singh Vs. State Transport Authority & Ors.” (AIR 2009 Punjab & Haryana 114) held that the period of limitation prescribed for filing an appeal in Motor Vehicle Act starts running from the date when the aggrieved party acquires actual or constructive knowledge of the making of the said order. In the present case, the impugned. Order clearly indicates that Manager of the appellant firm was present on the day of meeting. The onus to prove is on the appellant that it had no actual or constructive knowledge of the impugned order passed on 17.02.2003 in favour of respondent No.2 and others. I am unable to accept the plea that a private operator who claims to be having 6 permits and 5 buses with operations through out the State had no knowledge of the said permits being granted for 11 years ago. The impugned order was

passed on 17.02.2003. The present appeal has been filed on 13.08.2014. The appeal is nothing after but an afterthought. The same is beyond the period of limitations. Hence the appeal is liable to be dismissed.”

I have heard learned counsel for the petitioner and with his able assistance have also perused the records of the case.

The appeal of the petitioner has been dismissed on the ground that the same has been filed after 11 ½ years after passing of the order impugned in the appeal. It is the admitted position that the petitioner's application for grant of route permit for the route in question was considered and rejected through order dated 17.02.2003. For 11 ½ years, the petitioner never challenged the order passed rejecting his application. The other applicants, whose applications were also considered along with the application of the petitioner and who were granted the route permit continue to ply their buses on the route in question and the petitioner, who himself is a private operator having six permits and five buses with operation through out the State cannot say he had no knowledge of the rejection of his application.

Even otherwise, once the petitioner had moved an application, it became his duty to find out the outcome of the same especially when others had been granted the route permit for the route in question and were plying their buses on the said route. It is not believable that the petitioner had no actual or constructive knowledge of the order dated 17.02.2003 as the same had been passed rejecting the application made by him and in

favour of the others.

In view of the above, the Tribunal has rightly dismissed the appeal of the petitioner on the ground of delay.

Dismissed.

December 15, 2015
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(DEEPAK SIBAL)
JUDGE