

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CWP No.12003 of 2015
Decided on : 30.11.2016**

Sukhjit Singh

.... Petitioner

Versus

State Transport Appellate Tribunal, Punjab & another

.... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr.B.S.Sudan, Advocate, for
Mr.R.K.Sharda, Advocate, for the petitioner.

Ms.Lavanya Paul, AAG, Punjab.

G.S. Sandhawal, J. (Oral)

Petitioner challenges the order dated 23.12.2014 (Annexure P5) whereby his appeal has been dismissed and the order dated 16.11.2011 (Annexure P1) was upheld. Vide the earlier order, the application for renewal of the regular stage carrier permit of the mini bus was declined by respondent No.2, on the ground that the permit holder had neither appeared nor produced the original documents for renewal of the mini bus carriage permit. On account of failure of production of any documents it was held that the petitioner was not interested to pursue his case. On account of not completing the formalities for renewal of the permit and in view of Section 81(4) of the Motor Vehicles Act, 1988, the application was thus rejected.

Counsel for the petitioner has submitted that in the appeal, the issue raised as to whether the delay of 2 years 8 months and 5 days in filing the application before respondent No.2, could have been condoned by imposing penalty. Reference has been made to Rule 68-A of the Punjab Motor Vehicles Rules, 1989, which reads as under:

“68-A. Fee for late issue and late renewal of permit – In case where the vehicle remained without permit or counter-signatures or renewal of permit, the following amount of fee in addition to fee for permit or counter-signatures specified under rule 68 of the rules, shall be charged:

Period of Delay	Amount of Penalty
(a) For each day up to 15 days	Rupees ten per day subject to maximum of Rupees fifty
(b) More than 15 days up to 3 months	Rupees ten per day subject to maximum of Rupees Five Hundred
(c) More than 3 months up to 6 months	Rupees ten per day subject to maximum of Rupees One Thousand
(d) More than 6 months up to one year	Rupees ten per day subject to maximum of Rupees Two Thousand
(e) More than one year	Rupees two thousand per year and Rupees ten for every additional day

Provided that the Government may by general or special order and subject to such condition as may be specified, exempt any person or class of person from payment of all or portion of penalty payable.”

A perusal of the impugned order, passed by the Tribunal dated 23.12.2014 (Annexure P5) would also go on to show that the petitioner had raised the said issue before it and also submitted that he had appended 'No Dues Certificate' along with the application. It is further pointed out that all the tax was also paid upto 30.09.2014 (Annexure P-3) to ensure that the appeal was also heard on merits, so that no objection could be taken regarding any arrears. Further argument has been raised that the proceedings were held on 16.11.2011 and the order was, as such, not conveyed and that is why the delay in filing the appeal had occurred.

Accordingly, reference has been made to the Full Bench judgment in **Jagtar Singh Vs. The State Transport Appellate Tribunal &**

others 2009 (2) PLR 245 to submit that the Tribunal was in error in holding that there was delay of 2 years 10 months in filing the appeal. It is submitted that in the appeal (Annexure P2) itself, it has been specifically averred that the order had been applied for on 02.09.2014, on coming to know that the rejection has been made which had never been conveyed, as such. The appeal had been filed on 22.09.2014 within the prescribed period of 30 days. The specific case is that the order was not communicated and therefore the appeal was within limitation. The relevant observation of the abovesaid judgment reads as under:-

“A combined reading of Sections 80, 89 of the Motor Vehicles Act and Rule 85 of the Rules makes it manifest that the State or Regional Transport Authority passing an order appealable under Section 89 is by reason of Second proviso to Section 80 (2) obliged to provide to the applicant whose application has been declined, the reasons in writing for such refusal. This implies that the State or Regional Transport Authority is required to communicate any order made by it that refuses an application for grant of a permit of any kind, which order in turn is required to contain reasons for such refusal. In an ideal situation, no sooner an order is passed by the State or Regional Transport authority against an application refusing to grant a permit of any kind under the Act, the same must be communicated to the party seeking such permit, who can then resort to the remedy of an appeal under section 89 of the Act open to it within the time stipulated under Rule 85 of the Rules.”

In such circumstances, this Court is of the opinion that the case should be heard in its true perspective and accordingly, the matter is remanded to the Tribunal, for fresh decision on the issue as to whether the petitioner is entitled for the extension of the permit on payment of penalty,

as per rules.

Writ petition stands allowed in the above-stated terms.

NOVEMBER 30th, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No