

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

CWP No.21539 of 2011

New Pyar Bus Service Pvt. Limited, Amritsar

... Petitioner

Versus

The State of Punjab and others

... Respondents

(2)

CWP No.1766 of 2012

The Rohtak District Transport Cooperative Society Ltd., Amritsar

... Petitioner

Versus

State of Punjab and others

... Respondents

Reserved on: 08.11.2016

Decided on : 21.11.2016

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

Present: Mr. Baldev Kapoor, Advocate
for the petitioner (s).

Mr. S.S. Chandumajra, Addl. AG, Punjab.

Mr. A.M. Punchhi, Advocate
for respondent No.4.

G.S. Sandhawalia, J.

The present order shall dispose of two writ petitions i.e. ***CWP Nos.21539 of 2011 and 1766 of 2012***, since a common order is impugned passed by respondent No.2-The State Transport Appellate Tribunal (for short 'the Tribunal'). The facts are being taken from ***CWP No.21539 of 2011 'New Pyar Bus Service Pvt. Limited, Amritsar Vs. The State of Punjab and others'***.

The challenge in the present writ petition is to the order

dated 03.10.2011 (Annexure P-5), whereby the respondent No.2-Tribunal has directed the respondent No.3-Regional Transport Authority to prepare joint time table on various routes, which are commencing from Amritsar. It was further directed that the vehicle numbers-cum-permit numbers will be mentioned on each timings in order to ensure that they are not tax defaulters. The operative part of the abovesaid order reads as under:-

“1. In respect of the above mentioned route i.e. Amritsar-Jalalabad via Raya, Amritsar-Jalal Usman, Amritsar-Dera Baba Jaimal Singh, Amritsar-Sathiala via Rayya, Amritsar-Mehta via Rayya, Amritsar-Jodhe via Sathiala, Amritsar-Raya via Khadoor Sahib and Amritsar-Subhanpur, a joint time table be prepared within a period of two months from the date of receipt of the certified copy of this order. While preparing this time table, equal frequency and equal halting time be provided to all the operators.

2. The guidelines, if any, issued by the State Transport Commissioner, Punjab with regard to the framing and approval of the time tables be also followed strictly.

3. While preparing the joint time table, permit numbers as well as vehicle numbers be also mentioned against each timing in order to ensure that the operators who are operating on these routes are operating on the basis of the said permits and that they are not tax defaulters.

4. The operators who are not operating on this route, as well as who are tax defaulters, their names be struck off while framing the joint time table.

With this, this revision petition stands allowed and disposed of accordingly. But in the interest of the travelling public, bus services, as operating till date in respect of the above said routes, be continued till the framing of the fresh joint time table as ordered above. Record of the concerned transport authority,

if any, be sent back immediately. Revision file be consigned to the record room.”

The reasoning given by the Tribunal, thereafter, to come to the said conclusion is that the joint time table (Annexure P-5) which had to be framed by the Authorities was to ensure equal frequency would be provided to all the operators on the said route. The finding recorded was that the petitioner had been granted timings which are effecting the timings of the State Transport Undertakings (STUs), namely, Punjab Roadways and PRTC. On account of the unequal frequency being provided, the abovesaid directions have been issued.

The dispute had arisen on account of the petitioner in both the cases were holding the legal Stage Carriage Permits starting from Amritsar to various stations like Talwara via Subhanpur, Tanda, Dasuya, Mukerian route, Amritsar to Rayya via Jandiala, Tangra, Khalchian route. An extension had also been given to the petitioner from Rayya to Subhanpur on Permit No.597 (Annexure P-1).

The grouse of the respondent No.4 is that there was a joint time table which had been framed on 01.01.2010 which had been approved upto 31.03.2010 and that timings of the petitioner and the said respondent were also included and both were operating from the time table without any complaint and the same had been extended time to time. However, from 02.07.2011, from the help of the respondent No.3 and police officials, the petitioner had started operating buses at various points of time from Amritsar to Subhanpur and the said time table had overlapped the timings of the said petitioner and caused financial loss to

him. Various instances were given in the revision petition, which was filed on 14.07.2011 (Annexure P-4) against the petitioner New Pyar Bus Service Private Limited.

It is a common case of the parties that petitioner in ***CWP No.1766 of 2012*** had got himself impleaded before the Tribunal, leading to passing of the common order. The Tribunal rejected the objections of the respondents regarding the invalidity of any permit as such in favour of the petitioners and noticed that the initial permit was in the name of one Hardial Singh, which had been transferred in the name of the petitioner on the basis of a joint application filed by both the parties. The Tribunal had noticed in detail by examining timings which had been provided to the STUs and that endorsement had been made that the petitioner would also be provided a time within the 20 minutes period from Amritsar to Subhanpur. The benefit was granted between 7:20 A.M to 7:40 A.M in one instance 11:20 A.M to 11:40 A.M at the second instance and 14:50 to 15:10 against the timings of the STUs which were to run at 7:45 A.M, 11:10 A.M and 14:30.

Counsel for the respondent No.4 has referred to Annexures R-4/2 and R-4/4 which also shows the timings which were given to the said respondent to demonstrate how the said respondent was being prejudiced, which are led to the filing of the revision petition. It is pointed out that the petitioner had been put in at 9:55 A.M between the two timings which had been given to the said respondent to operate at 9:49 A.M and 10:02 A.M in the morning. This was apart from the free

run which was between the timings of the STUs. The petitioner was also introduced at 13:35 between the two timings of the petitioner at 13:25 and 13:38. Similarly, for the time of 17:10, the petitioner had been adjusted at the same time. Thus, it was the case of the respondents that the order impugned had only issued directions for framing the fresh time tables on the routes commencing from Amritsar. It is to be noticed that the route from Amritsar to Subhanpur is on the main road, whereas the operators though have to go off from the main road and operate on the villages off the highway, as per route plan (Annexure R-4/1) The directions, thus, which have been issued are only on account of the fact that the petitioner has been sought to be adjusted at the cost of others.

It is to be noticed that vide interim order dated 31.01.2012, it was directed that the respondent No.3 shall indicate the draft time table and accordingly in accordance with the same respondent No.2 while filing its reply, Annexure R-1 had been placed on record alongwith written statement.

A perusal of the said draft time table would go on to show that the timings have been equally distributed amongst all and the petitioner alongwith the said STUs and private respondents have been given equal frequency and there is no squeezing of the timings of the private operators as such.

The grouse of the petitioners while taking support from the pleadings filed by the State is that it is not feasible to do so, thus, is not tenable. Counsel for the petitioner could not point out any legal

ambiguity in the directions issued by the Tribunal. The impugned order which has been passed while exercising the revisional powers under Section 214 of the Motor Vehicles Act, 1988 had in fact been passed only on account of the occasion of failure of justice. The Tribunal has only rectified the same while issuing necessary directions which would allow a level play field to one and all. The time table which has, thus, been framed had led to the timings by which the petitioner was, thus, being put between the timings of the private respondents and STUs. As noticed above, it would necessarily entail picking up the passengers before the private respondents could operate his bus.

Resultantly, the order impugned has only noticed the said facts and directed the official respondents to act upon the same. In pursuance of the interim directions issued by this Court, the proposal has also been placed on record. Keeping in view the above fact, this Court is of the opinion that an innocuous direction had been issued which would not give any cause to the petitioners to challenge the same, as there is no irregularity and illegality in the order passed by the Tribunal.

Accordingly, keeping in view the above, the present writ petitions are dismissed. Respondent No.3 shall act on the directions issued on 03.10.2011 by the Tribunal and accordingly interim order dated 31.01.2012 is also confirmed.

NOVEMBER 21, 2016

Naveen

Whether speaking/reasoned:

Whether Reportable:

**(G.S. SANDHAWALIA)
JUDGE**

Yes

No