IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 16275 of 2015
Date of decision: 15.07.2016

Harwinder Singh ....Petitioner(s)

Versus

State Transport Appellate Tribunal, Punjab and another ...Respondent(s)

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

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

Mr. S.S. Chandumajra, AAG, Punjab.

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges the order dated 08.07.2014 (Annexure P-2) passed by the Secretary, Regional Transport Authority, Patiala (in short 'RTA') whereby, on account of non-appearance on behalf of the permit holder, the application for renewal was rejected. Challenge has also been raised to the order dated 18.05.2015 (Annexure P-3) passed by the State Transport Appellate Tribunal (in short 'STAT')-respondent no. 1, who has dismissed the appeal of the petitioner. The reasoning given by the STAT is that the petitioner had not filed the receipt of clearing of the pending taxes and he was in arrears when he filed the application and he had not put in appearance as directed earlier vide previous order dated 28.04.2014 (Annexure P-1) passed by the Tribunal. By coming to the conclusion that the order did not suffer any illegality, the appeal was dismissed.

Counsel for the petitioner has submitted that he was the original permit holder and the matter was being pursued through the power of attorney and no specific notice had been issued and, therefore, non-appearance was justified.

However, a perusal of the writ petition would go on to show that the petitioner himself had pleaded that notice was issued to him. Para no. 3 of the writ petition reads thus:-

> *"It is pertinent to mentioned here that in compliance of order dated 28.04.2014, case was again fixed in the meeting dated 01.07.2014 & 08.07.2014 and therein petitioner could not appear therein alongwith the original permit hold and due to this he was marked absent, otherwise also letter intimating the date of meeting for consideration of renewal application was directly posted to original permit holder not the attorney holder. Ultimately application was again rejected on this ground. A true copy of order dated 08.07.2014 passed by Respondent No. 2 is annexed herewith as Annexure P-2."*

It is, thus, apparent that in spite of a favourable order having been passed in favour of the permit holder whereby, the matter was remanded to the RTA to decide afresh within a period of 15 days, none had put in appearance before the said authority.

The order of remand was also subject to the inquiry of validity and the legality of the special power of attorney issued by the original permit holder and filing of requisite documents. It is apparent that the petitioner chose not to put in appearance in spite of being served and resultantly, the application for renewal of the permit was rejected. The order dated 28.04.2014 reads as under:-

> *"So, it is a fit case where appellant should be*

given an opportunity of hearing on his application for renewal. Hence present appeal is accepted and the impugned order dated nil, passed by the Secretary, RTA, Patiala is set aside. The appellant is directed to appear before the Secretary, RTA, Patiala within a period of one week from receipt of copy of order. File requisite documents and his application be considered afresh as per law within a period of 15 days of its filing, subject to enquiry of validity & legality of Special Power of Attorney issued by original permit holder in favour of appellant Hakam Singh. Record of the RTA concerned, alongwith copy of this order be returned. Appeal file be consigned to the record room."

The STAT, in appeal also, has thereafter noticed that the permit had expired on 06.02.2013 and the tax had been paid upto 31.12.2012. In compliance with the earlier order, he had only filed an application dated 03.05.2014 but did not file the receipt clearing the taxes thereafter and continued to be in arrears when his application for reconsideration was to be considered. Resultantly, the reasoning which has been given by the STAT does not suffer from any illegality or irregularity which would warrant interference. The STAT is well justified in holding out that in spite of opportunities given to the petitioner, he has failed to appear before the competent authority for renewal in terms of the remand order.

In such circumstances, there is no scope for interference in the orders dated 08.07.2014 (Annexure P-2) and 18.05.2015 (Annexure P-3) and the writ petition is accordingly dismissed.

15.07.2016 (G.S. SANDHAWALIA)
shivani JUDGE