

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-17015-2018

Date of decision : 06.10.2023

General Manager, Haryana Roadways, Gurgaon and others

... Petitioners

Versus

Jai Deep and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHLPresent: Ms.Palika Monga, DAG, Haryana
for the petitioners.**VIKAS BAHL, J.(ORAL)**

1. This is a civil writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing the impugned order dated 21.04.2016 (Annexure P-2) passed by the State Transport Appellate Tribunal-cum- District Judge, Ambala.

2. Vide order dated 21.04.2016, the District Judge, Ambala while exercising the powers of the State Transport Appellate Tribunal, had decided 14 appeals filed by various permit holders including respondent no.2 and Surinder Kumar, Satbir Singh, Satish and Krishan Kumar. The relevant portion of the said order is reproduced hereinbelow:-

“This order shall dispose off 14 appeals, titled above, all filed under Section 89(1) (e) of the Motor Vehicles Act, 1988 read with Rule 78 of the Haryana Motor Vehicles rules, 1993, challenging the similarly worded impugned orders, passed by respondent no.3- Secretary, Regional Transport Authority, Gurgaon, whereby renewal of respective route permits of the appellants have been declined, on the ground of non-payment of ‘Adda fee’.

2. *Following table depicts names of appellants, his/her route permit, which has been declined to be renewed; and the impugned orders passed by respondent no.3, challenged by way of these appeals*

<i>Civil Appeal No.</i>	<i>Name appellant</i>	<i>ofRoute Number</i>	<i>PermitImpugned passed by respondent no.3</i>	<i>order</i>
01 STAT of 2015	<u>Surinder Kumar</u>	89/C/2004	Endst.No.934-35 Dated 22.05.2015	
02 STAT of 2015	Ravinder	100/CT/2004	Endst.No.949-50 Dated 22.05.2015	
03 STAT of 2015	<u>Satbir Singh</u>	93/CT/2004	Endst.No.940-41 Dated 22.05.2015	
04 STAT of 2015	Kamleshwari	91/CT/2004	Endst.No.931-32 Dated 22.05.2015	
05 STAT of 2015	<u>Krishan Kumar</u>	99/CT/2004	Endst.No.943-44 Dated 22.05.2015	
06 STAT of 2015	Dharampal	94/CT/2004	Endst.No.946-47 Dated 22.05.2015	
07 STAT of 2015	Darshana Devi	102/CT/2004	Endst.No.952-53 Dated 22.05.2015	
08 STAT of 2015	Mukesh Kumar	90/CT/2004	Endst.No.937-38 Dated 22.05.2015	
09 STAT of 2015	Parveen	101/CT/2004	Endst.No.955-56 Dated 22.05.2015	
10 STAT of 2015	Kamleshwari	96/CT/2004	Endst.No.1086 Dated 10.06.2015	
11 STAT of 2015	Mukesh Kumar	90/CT/2004	Endst.No.1092 Dated 10.06.2015	
12 STAT of 2015	<u>Jai Deep</u>	97/CT/2004	Endst.No.1094-95 Dated 10.06.2015	
13 STAT of 2015	<u>Satish</u>	98/CT/2004	Endst.No.1083 Dated 10.06.2015	
14 STAT of 2015	Surajmal	88/CT/2004	Endst.No.1089 Dated 10.06.2015	

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33. On account of the entire discussion, as above, it is held that looking from any angle, the impugned orders passed by respondent no.3 in any of the appeals cannot be sustained in the eyes of law. The same are hereby set aside. All the appeals are accordingly accepted. Respondents are directed to consider afresh the applications of the appellants regarding renewal of their route permits in the light of observations/findings made in this order and till the fresh orders are passed, to allow the appellants to ply their vehicles on old permits, provided appellants fulfill other conditions of the permits including payment of taxes/dues (except Adda fee).

This order be placed on file of STAT (CA) No.01 of 2015 titled "Surinder Kumar Vs. Transport Commissioner Haryana etc.", whereas operative portion of this order be placed in each of the files of other appeals. Memos of costs be prepared. Files be consigned to record room after due compliance.

*Announced in open court
Dated: 21.04.2016*

*(Deepak Gupta),
State Transport Appellate Tribunal,
Haryana (District Judge), Ambala”*

3. It is not in dispute that against the order dated 21.04.2016, the petitioners in the present writ petition, who were common respondents in the 14 appeals filed before the State Transport Appellate Tribunal, had filed CWP-18493-2016 against the order passed in the appeal filed by Surinder Kumar and CWP-22093-2016 against the order passed in the appeal of Satish Kumar. A coordinate Bench of this Court vide judgment dated 22.12.2016 was pleased to dismiss the writ petition of the petitioners namely The General Manager, Haryana Roadways, Gurgaon and others. The relevant portion of the said order is reproduced hereinbelow:-

“The present order shall dispose of CWP Nos.18493 and 22093 of 2016, as common question of law and facts are involved. The facts are being taken from CWP No.18493 of 2016 'The General Manager Haryana Roadways, Gurgaon and others Vs. Surinder Kumar'.

The challenge is to the common order dated 21.04.2016 (Annexure P-2) passed by the State Transport Appellate Authority-cum-District Judge, Ambala. Vide the impugned order, the Tribunal accepted the two appeals alongwith other 12 appeals and issued directions to the respondents to consider afresh the applications of the appellants regarding the renewal of the route permits. They were also allowed to ply their vehicles on old permits, provided they fulfilled other conditions of the permits including payment of taxes/dues except Adda Fee till fresh orders were passed.

It has been brought to the notice of this Court by Mr. Sharma, who was also counsel before the Tribunal for the private respondent that in compliance of the said orders, the renewal has been granted till 07.09.2019. Apart from the said fact that the order has already been duly complied with, the present writ petitions are liable to be dismissed on the ground that the findings recorded by the Tribunal do not seem to suffer from any legal infirmity.

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Thus, for the abovesaid reasons which have been recorded by the Tribunal in appeal, this Court is of the opinion that no such illegality or irregularity as such can be found in the order, since the action of the

petitioner/State itself has been found to be without jurisdiction and the private respondents had never been put to notice of the arrears as such and the order was passed at their back. The factual finding has been recorded that the facilities were not being provided. The photographs on the record would go on to show that the Roadways condemned buses were standing in the area which was designated for the city bus stand.

In such circumstances, this Court is of the opinion that the impugned order dated 21.04.2016 (Annexure P-2) is well reasoned and justified in the above facts and warrants no interference under Article 226 of the Constitution of India. Accordingly, the writ petitions are dismissed.

DECEMBER 22, 2016”

A perusal of the above would show that apart from the other issues, it was also noticed by the coordinate Bench that in compliance of the order of the Tribunal, renewal of route permits had been granted and after considering all the aspects, the impugned order dated 21.04.2016 was upheld. It is further relevant to note that against the said order passed by the coordinate Bench, LPA-239-2018 with respect to the case of Surinder Kumar and LPA-241-2018 with respect to the case of Satish Kumar were filed by the petitioners herein namely General Manager Haryana Roadways, Gurugram and others and both the said LPAs were dismissed by the Hon’ble Division Bench of this Court vide two separate orders dated 18.09.2018. Thus, the impugned order dated 21.04.2016 has been upheld by the coordinate Bench as well as by the Hon’ble Division Bench of this court.

4. Learned State counsel has not been able to dispute the above said facts.

5. In view of the above said facts and circumstances, the present petition is dismissed for the same reasons as CWP-18493-2016 and CWP-22093-2016 which were decided on 22.12.2016.

5. It would be relevant to note that the present matter was

adjourned sine die in view of the fact that LPA-1346-2017 had been filed against another writ petition i.e. CWP-5539-2015 titled as “*Satbir and others vs. State of Haryana and others*” which was decided by another coordinate Bench on 24.08.2016. The said writ petitions were filed by Satbir and others and Krishan Kumar and others on the plea that they cannot be asked to pay adda fee and the said writ petitions were allowed vide order dated 24.08.2016 by the coordinate Bench and the LPA against the same i.e., LPA-1346-2017 was dismissed on 15.10.2018.

(VIKAS BAHL)
JUDGE

October 06, 2023
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No