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Court : Madhya Pradesh

Decided On : Jul-07-1994

Reported in : I(1995)ACC22

Judge : D.M. Dharmadhikari, J.

Appellant : Sherbabe

Respondent : State Tpt. Appellate Tribunal and ors.

Judgement :

D.M. Dharmadhikari, J.

1. The petitioner was a holder of regular contract carriage permit No. 327/88 to ply 23 seaters vehicle which was valid upto 6.6.80. The petitioner applied for renewal of the said permit for a period of five years. The application was published under Section 57(3) of the Motor Vehicles Act, 1939, now repealed by the M.P. Motor Vehicles Act, 1988. During the pendency of the renewal application, the original permit holder-Mohammad Hussain-expired on 12.12.79 and the present petitioner is his widow who applied for substitution of her name in the application for renewal and transfer of the permit. The renewal was objected to only by the M.P. State Road Transport Corporation on the ground that it would effect the nationalisation scheme No. 64-M, 70-M, 78,79 and 83. The objection was that the renewal cannot be granted under Section 68-F(1-D) of the repealed Act.

2. The Regional Transport Authority, Indore did not pass any order on the application for renewal of the permit. The petitioner again filed a second application for renewal after 7.6.83. The second application was also published.

3. The Regional Transport Authority, Indore, by the impugned order dated 7.6.83 (Annexure-D) rejected the application of the petitioner for renewal of the permit as also for substitution of the name of the petitioner in place of the deceased-permit-holder. The Regional Transport Authority refused renewal to the petitioner on the ground that there were arrears of taxes against the deceased-permit-holder. The other ground for rejection of the renewal was non-maintenance of the rules and non-production of 'no objection' certificate' from the financer of the vehicle.

4. The petitioner preferred an appeal to the State Transport Appellate Tribunal, Gwalior which rejected the appeal and maintained the order of the Regional Transport Authority. The respondent No. 3 was co-applicant for contract carriage permit and was granted permit prayed for the limited area.

5. The learned Counsel appearing for the petitioner firstly made straneous efforts before this Court to point out that his permit was the only permit which was existing on the date of the proposed nationalisation scheme and was, therefore, saved. That question does not arise for consideration as the refusal of renewal is not on that ground. It may also stated' at the outset that in the course of hearing, the learned Counsel gave up his challenge to the ground of contract carriage permit to co-applicant-respondent No. 3.

6. So far as the refusal of renewal of permit to the petitioner is concerned, it is submitted that the taxes due against the deceased-permit-holder could not be taken to be a good ground for refusal of renewal of the present applicant who is the legal representative. It is also stated that the petitioner was ever willing to clear all taxes but no demand notice was issued in her name and hence it cannot be held that there were tax dues against the petitioner. On the other two grounds, on which the renewal has been refused, the learned Counsel for the petitioner submit that for a contract-carriage-permit, there is no question of maintenance of any rule. It was also pointed out that there was no hire-purchase agreement with regard to the vehicle in question and that was also not a valid ground to refuse renewal.

7. Since no challenge was made to the grant in favour of the co-applicant-respondent No. 3, Shri A.G. Dhande, learned Counsel appearing for him, did not advance any argument against the petitioner.

8. I have carefully perused the order Annexure-D dated 7.6.1983 of the Regional Transport Authority Indore and Annexure-J dated 26.12.183, passed in appeal by the S.T.A.T. Rejection of the application of the petitioner for renewal is supported only on the ground that the tax dues in the sum of Rs. 57,700/- were outstanding against the deceased-permit-holder. The petitioner filed an application for substitution of her name in place of the deceased-permit-holder in the application for renewal. It is not open to the petitioner to contend that the taxes due against the deceased-permit-holder are not due against the petitioner who claims to be his legal representative. It cannot be said that since there was no demand notice issued in her name, there are no tax dues. Rejection of the removal on the ground of tax dues, therefore, has to be upheld. I am not required to go into the validity of the other two grounds based on non-maintenance of record and non production of no objection certificate from the supplier of the vehicle under the hire-purchase. The impugned orders are, therefore, liable to be sustained on the first ground sentenced above of the tax due against the petitioner.

9. The authorities have also taken into consideration the additional fact that the vehicle, which was being used for operating on the basis of the permit, had already been transferred to third party. The learned Counsel for the petitioner, in the course of arguments, proposed to operate on the basis of the permit in the case of renewal is granted with another vehicle. The fact of transfer of vehicle has not been categorically denied before the authorities or in this Court. Under the new Motor Vehicles Act, 1988, there is no restraint on applying for fresh contract-carriage-permit. If the petitioner possesses a new vehicle, she is free to make an application for grant of fresh contract-carriage-permit which shall be decided by the authorities concerned in accordance with law.

10. The petition fails and is hereby dismissed; but without any order as to costs. The amount of security deposited by the petitioner be refunded to her.

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