

# IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 9169 of 2012-G and CWP No. 7507 of 2012-A.

Date of decision: 20.11.2012.

---

## 1.CWP No. 9169 of 2012-G.

Regional Transport Authority Shimla-cum-Divisional Commissioner,  
Shimla HP 171002 through Secretary Regional Transport Authority  
Shimla HP Parivahan Bhawan- 171004.

..... Petitioner.

Vs.

Sh. Jai Prakash Paul s/o Late Sh. Sant Ram Pal R/O C-1/23 Nabha House  
Shimla Tehsil and Distt. Shimla HP.

.... Respondent.

For the petitioner: Mr. R.M. Bisht and Mr. Vinod Thakur,  
Dy. Advocates General.

For the Respondent : Mr. K.R.Thakur, Advocate.

## 2.CWP No. 7507 of 2012-A.

Sh. Jai Prakash Pal s/o Late Sh. Sant Lal Pal, R/o C-1/23, Nabha House,  
Shimla, Tehsil and Distt. Shimla (H.P.).

..... Petitioner.

Vs.

1. State of Himachal Pradesh through Secretary Transport to the  
Govt. of H.P., Shimla-2 (H.P.).
2. Regional Transport Authority, Shimla through its Secretary, Tehsil  
and Distt. Shimla (H.P.).

.... Respondents.

For the petitioner: Mr. K.R.Thakur, Advocate.

For the Respondents : Mr. R.M. Bisht and Mr. Vinod Thakur,  
Dy. Advocates General.

---

## **Coram**

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice Kuldip Singh, Judge.

***Whether approved for reporting? No***

---

**Deepak Gupta,, Judge (Oral).**

Mr. K.R. Thakur, Advocate, states that he does not want to file specific reply in CWP No. 9169 of 2012-G filed by the Regional Transport Authority, Shimla and his petition itself be read as reply to the said writ petition.

2. Both these writ petitions are being disposed of by a common judgment since both are directed against the same order passed by H.P. State Transport Appellate Tribunal, Shimla (STAT). Undisputedly, an accident took place on 11.11.2011 between bus No. HP-63-2370 owned by the petitioner Jai Prakash Pal and bus No. HP-63A-2723, which is herein-in-after referred as the other bus. From the findings given both by the Regional Transport Authority, Shimla (RTA) as well as the STAT, it is more apparent that bus No. HP-63A-2723 (the other bus) was wrongly parked in the middle of the road and passengers were disembarking from the said bus. Bus No. HP-63-2370 owned by the petitioner came from behind and tried to overtake the wrongly parked bus and a collision took place between the two buses. The finding of RTA was that the accident had occurred due to human error on the part of drivers of both the buses, but it was also found that Pawan Kumar, the authorized driver of the bus of the petitioner was in fact actually not driving the bus and the bus was being driven by Rajinder Negi, who could not produce the driving licence. Be that as it may, the RTA also found that the cause of accident was the wrong side parking of the

---

***Whether the reporters of the local papers may be allowed to see the Judgment? yes***

bus and deboarding of the passengers by the driver and conductor of other bus and wrong side overtaking and careless driving of the bus owned by the petitioner. Thus virtually, both were found equally responsible for the accident, but while awarding the penalty, only penalty of ₹25000/- was imposed on the owner of the other bus, whereas route permit of the petitioner with regard to the bus in question was cancelled.

3. The petitioner filed Appeal No. 3 of 2012 before the State Transport Appellate Tribunal and during the course of the appeal produced the original driving licence of Rajinder Negi. Thereafter the Appellate Tribunal also held that accident was the result of rash and negligent acts of both the drivers and held both the drivers equally responsible. Therefore, the Appellate Tribunal quashed the order of cancellation of route permit and instead imposed a penalty of ₹30000/-. This order was passed on 17.5.2012. Copy of the order was obtained by the petitioner on 18.5.2012 and on the next date the petitioner sought permission to deposit ₹30000/- with the RTA Shimla and this amount was deposited on 19.5.2012 itself. Despite this, the RTA did not issue route permit in favour of the petitioner. Thereafter, the writ petitioner filed the present writ petition No. 7509 of 2012-A on 1.9.2012, which was listed for the first time in the court on 5.9.2012. Reply was to be filed by the respondents within two weeks and the matter was listed on 17.9.2012. Again time was sought by the State to file the reply and the matter was adjourned to 27.9.2012. It appears that matter could not be taken up on 27.9.2012 and was finally taken up on 5.11.2012. In the

meantime, RTA also filed writ petition being CWP No. 9169 of 2012-G on 19.10.2012 challenging the order of Appellate Tribunal mainly on the ground that the Tribunal has wrongly taken into consideration the licence of Sh. Rajinder Negi. It is also urged that even if Sh. Negi was the driver of the bus and holding valid driving licence, even then he was also not authorized driver of the bus.

4. This court in writ jurisdiction cannot interfere with the findings of fact. There are concurrent findings of fact of both RTA and STAT that both the drivers were equally responsible. The STAT has given a finding of fact that Sh. Negi, who was driving the vehicle held a valid driving licence. No doubt, he may not be authorized driver, but he held a valid driving licence, which fact has not been disputed in the writ petition filed by the RTA. Therefore, we are of the opinion that order of the Tribunal was just and reasonable and should not have been interfered with.

5. The petitioner has claimed damages for his bus being kept without route permit, especially after the order was passed by the STAT on 17.5.2012. We are constrained to observe that the RTA could not have sat over the order of STAT and not issued the route permit without obtaining stay order from the court of competent jurisdiction. One can expect some time to be spent in approaching the court, but in this case the petitioner had deposited the amount of penalty on 19.5.2011. The RTA was obviously aware of the order and if it was aggrieved by the order it should have approached this court immediately. It appears to us that the writ petition filed by the RTA is merely a counterblast to the writ petition filed by the petitioner

and nothing else. We, therefore, feel that petitioner must be compensated and we therefore, direct that amount of ₹30000/- be returned to him and the RTA is directed to issue route permit within a week from the production of a copy of this order.

Copy dasti.

**( Deepak Gupta ),  
Judge.**

**November 20, 2012.**  
**(Hem)**

**( Kuldip Singh ),  
Judge.**