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by the statute is a payment to the creditor and which becomes his property when deposited is not payment to him. If a sum of Rs. 247.50 nP. is to be considered as having been paid to the landlord in the present case, then all that the tenants had to do was to pay or tender the balance amount due in accordance with the proviso to section 13(2) (i) of the Rent Act on the first date of hearing before the Rent Controller and this is what they, in fact. did.

In this view of the matter; this petition must succeed and it is allowed and the order of the Appellate Authority is set aside and the eviction application is dismissed. In the circumstances, there will be no order as to costs.

D. Falshaw, C. J.

D. FALSHAW, C.J.—I agree.

*K.S.K.*

CIVIL MISCELLANEOUS

*Before D. Falshaw, C.J., and A. N. Grover, J.*

ROSHAN LAL,—*Petitioner*

*versus*

THE REGIONAL TRANSPORT AUTHORITY, PATIALA, AND ANOTHER,—*Respondent*

**Civil Writ No. 1346 of 1963**

1963

Oct. 18th.

*Motor Vehicles Act (IV of 1939) as amended by Motor Vehicles (East Punjab Amendment) Act (XXVIII of 1948)—S. 62 (d)—Whether to be read* ejusdem generis *with the clauses preceding it—Transport permit—Whether can be granted more than once extending over a period of more than four months.*

*Held*, that clause (d) added to section 62 of the Motor Vehicles Act, 1939, by the Motor Vehicles (East Punjab

Amendment) Act, 1948, cannot be read *ejusdem generis* with the clauses (a), (b) and (c) preceding it. The language of this clause makes it clear that the intention of the legislature was to give a wider and general meaning to the words used therein.

*Held*, that at any one time the Regional Transport Authority is not permitted to issue to any person a temporary permit for a period exceeding four months. But if the temporary need persists, it will be permissible for the Regional Transport Authority to grant a second temporary permit for that temporary need. But if the Regional Transport Authority abuses its powers by granting successive temporary permits, its orders will be corrected by the Courts.

*Case referred by Hon'ble Mr. Justice A. N. Grover, on 9th August, 1963, to a Division Bench for decision owing to the importance of the question of law involved in the case. The Division Bench consisting of the Hon'ble Chief Justice, Mr. D. Falshaw and Hon'ble Mr. Justice A. N. Grover, finally decided the case on 18th October, 1963.*

B. L. GOSWAMI AND N. N. GOSWAMI, ADVOCATES, for the Petitioner.

M. R. SHARMA AND R. L. SHARMA, ADVOCATES, for the Respondents.

JUDGMENT

GROVER, J.—This is a petition under Article 226 of the Constitution which was referred by me sitting singly to a Bench in view of the importance of the points raised. Grover, J.

It has been alleged in the petition that the Haryana Roadways is holding route permits as follows:—

"(a) One permit for plying a bus from Dadri to Narnaul;

(b) One permit for plying a bus from Dadri to Mohindergarh;

(c) Two permits for plying buses from Mohindergarh to Narnaul, and

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(d) One permit for plying a bus from Kahina to Narnaul (*via* Mohindergarh)."

These routes cover parts of the route from Rohtak to Narnaul. The Regional Transport Authority, Patiala, issued a temporary permit to the Punjab Roadways, Gurgaon for one more return trip daily on Rohtk-Narnaul *via* Dadri route in the following terms :—

"On 50:50 basis between the Punjab Roadways, Gurgaon, and the Private Operators who were having one permit with one return trip daily each."

The grant of the temporary permit has been challenged on the ground that it could not have been granted by the Regional Transport Authority except on the grounds enumerated in section 62 of the Motor Vehicles Act, 1939 (hereinafter to be referred to as the Act), which are as follows:—

"(a) for the conveyance of passengers on special occasions such as to and from fairs and religious gatherings, or

(b) for the purposes of a seasonal business, or

(c) to meet a particular temporary need, or

(d) pending decision on an application for the renewal of a permit, or

(d) in such circumstances as may, in the opinion of such authority, justify the grant of such permits."

It may be mentioned that the last clause has been added by the Motor Vehicles (East Punjab Amendment) Act, 1948. It has further been alleged that by another resolution dated 24th June, 1963, the temporary permit has been reissued in favour

of the Punjab Roadways, Gurgaon, for a further period of three months, the basis being the same as before. According to the petitioner, a temporary permit could have been issued for a period of four months only and it could not be reissued for a further period not exceeding four months as that would be contrary to the provisions contained in section 62 of the Act.

It is necessary to set out the reply of respondent No. 1 to paragraphs 5 and 6 *in extenso*:—

"5 *and* 6. It is not conceded that a temporary permit could not legally be given to the Punjab Roadways, Gurgaon, on the 50:50 basis. The Implementation Committee, as intimated by Provincial Transport Controller,—*vide* his memo. No. 11114/CA-1/C, dated 4th January, 1963 (annexure B), decided to grant the following trips on Rohtak-Narnaul *via* Dadri route:—

| | |
|---|---|
| Pepsu Road Transport Corporation | 4 trips. |
| Punjab Roadways, Gurgaon | 1 trip. |
| Private Operators | 1 trip. |

The Punjab operators were allotte equal share in the nationalized and private sector. The share of the erstwhile Pepsu State equal to 4 trips in terms of the mileage was allotted to Pepsu Road Transport Corporation in view of complete nationalization in the erstwhile Pepsu State. Pepsu Road Transport Corporation by mutual agreement had its 4 trips transferred to Punjab Roadways, Gurgaon. This additional trip sanctioned by the Regional Transport Authority in January, 1963, in the aforesaid order of 22nd January, 1963, was in lieu of one of the trips transferred from the Pepsu Road Transport Corporation. As

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already mentioned above, the temporary permit was issued under section 62(d) of the Motor Vehicles Act as amended by (East Punjab) Amendment Act, 1948.

If and when regular permit(s) under 50:50 scheme is issued, the prescribed procedure will be followed under section 57 of the Motor Vehicles Act. The order of the Regional Transport Authority is, therefore, regular, proper and in the public interest."

The first question which is to be determined is whether the last clause which has been added by the Motor Vehicles (East Punjab) Amendment Act, 1948, is to be read *ejusdem generis* with the clauses which precede it. It is common ground that if it is to be so read, then the basis on which the temporary permit has been issued in favour of the Punjab Roadways would not be covered by the provisions contained in section 62 under which alone temporary permits can be issued. Mr. B. L. Goswamy for the petitioner contends that the whole object of issuing temporary permits is to make provision for conveyance of passengers on special occasions and for seasonal business or to meet or satisfy some temporary need or to await the decision for the grant or renewal of a permanent permit for which an elaborate procedure has been laid down under section 57 of the Act. This being the object, it is suggested that the clause as added by the East Punjab Amendment Act of 1948 cannot but be so interpretted as to limit the reasons or the circumstances to the same category as contained in clauses (a), (b), (c) and (d) of section 62. Our attention has been invited to Sutherland Statutory Construction, Volume 2, wherein it is stated in section 4909 that the doctrine of *ejusdem generis* is a variation of the doctrine of *noscitur a soccis*. Where general words follow specific words in an enumeration describing the

legal subject, the general words are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words. The doctrine applies when the following conditions exist:—

> "(1) the statute contains an enumeration by specific words;
>
> (2) the members of the enumeration constitute class;
>
> (3) the class is not exhausted by the enumeration;
>
> (4) a general term follows the enumeration; and
>
> (5) there is not clearly manifested an intent that the general term be given a broader meaning than the doctrine requires."

In Corpus Juris Secundum, Volume 82, the doctrine of *ejusdem generis* is set out at page 658 in the following words:—

> "Where general words follow the enumeration of particular classes of persons or things, the general words, under the rule or maxim of construction known as '*ejusdem generis*,' will be construed as applicable only to persons or things of the same general nature or class as those enumerated unless an intention to the contrary is clearly shown."

It is, however, stated at page 662 that it is not a rule of universal application and is only a rule of construction, to be applied as an aid in ascertaining the legislative intent or an instrumentality for ascertaining the correct meaning of words when there is uncertainty and in a proper case

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other rules or canons of statutory construction may and should be used in aid of, or even in preference to, the *ejusdem generis* rule. The doctrine may be invoked where there is ambiguity, but it is inapplicable where the legislative intent is clearly expressed. In *Kavalappara Kottarathil Kochuni* v. *The State of Madras and Kerala* (1), it was laid down that when general words follow particular and specific words of the same nature, the general words must be confined to the things of the same kind as those specified. But the specific words must form a distinct genus or category. It is not an inviolable rule of law, but is only permissible inference in the absence of an indication to the contrary. In *Mahinder Singh S. Shamsher Singh* v. *Union of India* (2), My Lord, Falshaw, J. (as he then was), had an occasion to consider whether the words "any other sufficient reason" appearing in rule 102 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955, were to be construed *ejusdem generis* with the clauses preceding the same. It was held that where the object of the Legislature had been clearly expressed and the intention is to extend the scope of the general words a wider meaning should be given to the succeeding words. Keeping all these principles in mind and looking at the language of the last clause, there can be no doubt that the intention of the Legislature was to give a wider and general meaning to the succeeding words and that the aforesaid clause cannot be read *ejusdem generis* with the clauses preceding it. The first contention raised on behalf of the petitioner is consequently without any substance.

The second contention raised on behalf of the petitioner is that in view of the language of section 62 of the Act, no temporary permit could

(1) A.I.R. 1960 S.C. 1080.
(2) A.I.R. 1958 Punj. 212.

be granted for a period exceeding four months and this meant that it could be granted only for a period not exceeding four months once and it could not be reissued for a further period of four months or less on the expiry of the first permit. In the opening part of section 62 what is laid down is that the permits are to be effective for a limited period which is not in any case to exceed four months. This clearly means that when permit is issued it could not be issued for a period exceeding four months but there does not seem to be any bar contained in the section itself to another permit being issued in the same manner after the expiry of the period of the first permit. Indentically a similar question came up for examination in *Jairamdas* v. *Regional Transport Authority* (3), and Wanchoo, C.J., (as he then was) and Dave,J., expressed the view that at any one time the Regional Transport Authority was not permitted to issue to any person a temporary permit for a period exceeding four months. But if the temporary need persisted as, for example, where the formalities under section 57 were not finished within four months it would be permissible for the Regional Transport Authority to grant a second temporary permit for that temporary need. This did not mean that the Regional Transport Authority should abuse his power and go on granting temporary permits one after another and not take speedy steps to complete the procedure under section 57. If on the facts of any case it appeared that the Regional Transport Authority was so abusing its powers its orders were liable to be corrected. But where such abuse was not shown, the mere fact that the Transport Authority had in a particular case granted a temporary permit second time and the total of the two periods was more than four months would not invalidate the second permit. With respect, we entirely agree and hold

(3) A.I.R. 1957 Raj. 162.

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that there is no such bar to the issuing of a second permit after the expiry of the period of the first permit for a period not exceeding four months at a time. It has been pointed out in the present case on behalf of the petitioner that this process can be continued *ad infinitum*, with the result that the provisions of the statute with regard to grant of permanent permits can be circumvented and power given under section 62 can be exercised arbitrarily and with ulterior motives. We have no doubt that if such a case is made out, the Courts would certainly interfere but we are not satisfied that any such case has been established up to the present time. It will, however, be open to the petitioner to move a fresh petition if a case of abuse of power is sought to be made out at a later stage. We have also no doubt that the authorities concerned will not continue issuing temporary permits indefinitely when the proper course to adopt would be to have proceedings initiated under section 57 of the Act.

The petition, however, is dismissed, but in the circumstances the parties are left to bear their own costs.

Falshaw, C. J.

D. FALSHAW, C.J.—I agree.

*B.R.T.*

CIVIL MISCELLANEOUS

*Before A. N. Grover, J.*

GIANI ZAIL SINGH,—*Petitioner.*

*versus*

ELECTION TRIBUNAL II, CHANDIGARH AND OTHERS,—*Respondents.*

**Civil Writ No. 1748 of 1963**

1963

Oct., 18th.

*Representation of the People Act (XLIII of 1951)—S. 90 and Code of Civil Procedure (Act V of 1908)—Order XVIII rule 2—Election petitioner refusing to produce full*