

Between: **Monika Monita Prasad**

Appellant

And: **Land Transport Authority**

Respondent

Appearances and Representations

Appellant: Present - In Person.

For LTA: Ms. Vinaya Nasilasila.

Judgment

Introduction

Monika Prasad, the Appellant has appealed the decision (dated 4th December 2015) of the LTA declining her request for renewal of Taxi Permit Number T5057. The decision of LTA was communicated to Monika Prasad through a letter dated 22nd December 2015.

The Decision

The LTA gave the following reasons for refusing to renew the taxi permit:

"1. The applicant is not a fit and suitable person to hold the Permit as required pursuant to Land Transport (Public Service Vehicle) Regulations, Regulation 5 (1) (d)."

The Grounds of Appeal

The Appellant's grounds for appeal is contained in a letter dated 2nd March 2018 and it can be briefly summarised as follows:

1. The LTA has not fairly dealt with the renewal application. Previously in similar situation the LTA has renewed taxi permit for Robin Surya Ram who is in prison and serving a twelve year sentence.
2. Conviction for money laundering has been quashed and verdict of acquittal entered.

Hearing

The appeal was heard on 23rd March 2018. Oral and written submissions were made.

The Function and Powers of the Tribunal

Section 40 (2) of the Land Transport Act provides for the function of the Tribunal. It allows the Tribunal matters under Section 65 of the Act relating to licensing of drivers (Part V) and matters under Part VI involving public service vehicles licensing.

The powers of the Tribunal for the purposes of hearing and determining appeals according to Section 46 are to "(a) to issue a summons to a witness in the prescribed form; (b) to

call for the production of books, plans and documents; (c) to examine witnesses on oath or affirmation; (d) to admit any evidence whether written or oral and whether or not such evidence would be admissible in civil or criminal proceedings; (e) to exclude any person if necessary so as to ensure the proper conduct of the appeal or to preserve order."

Furthermore, under Section 46 (2) "on an appeal under this Part the Tribunal may dismiss the appeal or make such order as it thinks just and reasonable in the circumstances directing the Authority to issue, transfer, or cancel any licence, certificate or permit, or to impose, vary, or remove any condition or restriction in respect of a licence, certificate or permit, and the Authority shall comply with that order." And under Section 46 (3) "Upon the determination of an appeal under this section the Tribunal may make such order as it thinks just with the respect to the costs of the appeal, and any person to whom any such costs are awarded may recover the amount of those costs in any court of competent jurisdiction, as a debt due from the person against whom those costs are awarded."

According to Section 47 the Tribunal "for the purposes of the hearing and determination of any appeal the Tribunal shall have regard to those matters which the Authority is required to have regard to in considering an application under this Act."

Analysis

The Tribunal has noted the grounds of appeal filed by the Appellant. The submissions by the parties and the documents filed by them have been examined by the Tribunal.

The Appellant, Monika Prasad on 17th February 2012 was sentenced to an imprisonment term of 7 years for money laundering and 6 months for corrupt practices (concurrent). On 27th September 2012 the LTA provisionally approved and re-issued Taxi Permit LT 5057 to Monika Prasad. On 14th January 2013 the LTA issued a taxi permit to Monika Prasad which was valid from 26th September 2012 until 25th September 2015. Upon expiry of this permit Monika Prasad applied for a renewal.

On 6th October 2017 the Supreme Court quashed Monika Prasad's the conviction for money laundering. The leave to appeal against conviction and sentence for corrupt practices was refused. Ms Monika Prasad has raised the matter involving Robin Surya that was previously before the Tribunal. The Tribunal has judicial notice of Appeal # 38 of 2015, where the appellant was Robin Surya. In the matter of Robin Surya the LTA had declined to re-issue him the permit citing Regulation 5 (1) (d) of the Land Transport (PSV) Regulations 2000. The same Regulation is cited in this matter. Robin was given similar reasons as is given to Monika Prasad.

When the Tribunal was dealing with Robin's appeal on 13th May 2016 Mr Navilesh Chand (then Manager Legal of LTA) appeared before the Tribunal. Mr Chand informed the Tribunal of the LTA policy in respect of cases like that of Mr Surya and the decision of the LTA with respect to those matters. Mr Chand informed the Tribunal that LTA had reconsidered the decision made in Robin Surya's matter and had agreed to re-issue the permit to Mr Surya. Robin Surya was serving term of 12 years imprisonment when the LTA re-considered its position and agreed to re-issue the taxi permit.

The decision reached by the LTA against Monika Prasad is around the same time the decision against Robin Surya was

made. The LTA reversed its decision for Robin Surya who was serving a custodial term. In the matter before the Tribunal Monika Prasad has her conviction for Money laundering quashed and a verdict of acquittal entered. The other offence of corrupt practices for which Monika Prasad was sentenced to 6 months imprisonment has been served by Monika Prasad.

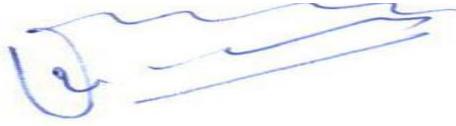
The Tribunal finds that the policy decision of LTA that was applied in the appeal of Robin Surya in a similar matter should be applied in this matter of Monika Prasad. LTA does not dispute that Robin Surya who is serving a term of 12 years has had his taxi permit renewed under the LTA policy. By not applying its policy consistently the LTA is treating Ms Monika Prasad unfairly. The LTA needs to be consistent in applying its policies. On one instant LTA has agreed to the renewal/re-issue of the taxi permit for a convicted person and in another it is not renewing or stating that the policy applied in that other matter should apply.

The case for Monika Prasad for renewal of the taxi permit in her name is stronger. She has had similar matter in Court and has had her head sentence quashed. She had spent about 6 years in custody before she was released. Monika Prasad should not be treated any different from Robin Surya. Robin had his taxi permit re-issued despite being in custody. The policies of LTA need to be fairly and evenly applied and for this reason the LTA is directed to renew Taxi Permit T5057 in favour of Monika Monita Prasad, the appellant.

Orders

- a. Appeal Succeeds.
- b. The LTA is directed to renew Taxi Permit T5057 in the name of Monik Monita Prasad.

c. The Respondent (LTA) is to pay the Appellant \$600.00 cost within 21 days. The costs have been summarily assessed.



Chaitanya Lakshman
Land Transport Appeals Tribunal
6th April 2018

