

DECISION OF THE TRAFFIC COMMISSIONER

Roadways Haulage Ltd OD1143309

Written version of an oral decision given at a public inquiry in Birmingham on 8 January 2020

Decision

1. Standard international licence OD1143309 held by Roadways haulage Ltd is revoked with effect from 0001 on 1 February 2020 pursuant to Section 26(1)(e) and (f) and 27(1)(a) of the Goods Vehicles (Licensing of Operators) Act 1995.
2. Company director Pargan Singh is disqualified for three years, from 1 February 2020 until 1 February 2023, from holding or obtaining any type of operator's licence in any traffic area and from being the director of any company holding or obtaining such a licence, pursuant to section 28 (1), (4) and (5) of the 1995 Act.
3. I find the conduct of driver Pargan Singh to be such as to render him unfit to drive large goods vehicles. Under Section 115 of the Road Traffic Act 1988 I am revoking his HGV driver entitlement with effect from 0001 hours on 11 January 2020. Under Section 117 of that Act I am disqualifying him from driving HGVs for 12 months from 11 January 2020 until 11 January 2021.

Reasons for the revocation of the licence

4. The operator lacks the required financial standing (Section 27(1)(a) of the 1995 Act refers). No evidence of finances of any sort has been provided, despite an explicit request in the call-up letter to do so.
5. The operator lacks the required professional competence (Section 27(1)(a) also refers). The previous transport manager Gurkampreet Singh, resigned from the licence on 14 August 2019. The replacement TM nominated in September 2019, Sukhjeven Lally, resigned from all transport manager responsibilities on 17 October 2019, although does not appear to have informed the operator of this. There is no evidence that Mr Lally has ever exercised any of the responsibilities of a transport manager. He has not attended today, despite a request that he do so.
6. It is clear from DVSA's reports that the licence has been operated in a highly non-compliant manner. All three MOT presentations have resulted in outright failures for numerous failure items. There have been gaps of up to 15 weeks between safety inspection intervals (the stated interval is six weeks). There was no proper forward planner. The operator's trailer had no brake tests carried out. A prohibition was received for a 31cm long split in a tyre. Tachograph charts have not been properly analysed – the traffic examiner found in June 2019 that charts for February, March and April had still not been sent off for analysis. The company director and sole driver Pargan Singh was in the habit of removing the tachograph chart from the vehicle and continuing to drive: he did so on 11 occasions between February and April 2019. Further, Pargan Singh gave an entirely untrue explanation for the driving without charts, claiming that the driving was done by the maintenance provider. The maintenance provider has provided a witness statement to the effect that the vehicle was not with it at the relevant times.
7. Despite the call-up letter stipulating that the operator bring up to date maintenance and drivers' hours records, Pargan Singh has brought no documentation of any kind

to today's inquiry. He has therefore been unable to demonstrate any improvement since the DVSA investigations.

8. Pargan Singh appears completely out of his depth as an operator. He does not appear to have responded to the suggestions of his transport manager (although the transport manager should have been much more rigorous and effective in following these suggestions up). Revocation of this licence is in any case mandatory given the lack of financial standing and professional competence but even if it were not, I would still be revoking it under Section 26 alone because the operator's complete failure to address any of the issues identified by DVSA's reports means that I can have no confidence that it will comply in future. There is nothing on the positive side of the balance and the company deserves to go out of business.

Disqualification - operator

9. For the reasons outlined above, I conclude that Pargan Singh should be disqualified under Section 28 of the 1995 Act from holding a licence in the future. In deciding upon the length of his disqualification, I have taken account of paragraph 100 of the Senior Traffic Commissioner's Statutory Guidance Document 10. This posits a starting point of between one and three years for a first public inquiry (which this is) but a period of between five and ten years where an operator has allowed drivers to falsify records (Mr Singh has himself falsified records). Because of the falsification element, and because Mr Singh clearly has no idea about how to operate compliantly and has made no effort at all to address the shortcomings identified by DVSA in the five months since their reports, I have determined upon a disqualification period – three years - at the top end of the guidance range for a first public inquiry.

Transport manager

10. Gurkampreet Singh has failed to exercise the required continuous and effective management of this licence. He has failed to spot that vehicles have missed due inspection dates and failed to ensure that tachograph charts were sent off for timely analysis. He did not have a proper contract with the operator although I accept that he was paid. I have come very close to removing Gurkampreet Singh's repute. I have just refrained from doing so because his record on the other two licences on which he is the transport manager has not suggested any significant failings. But I am issuing him with a strong warning that he must, in future, exercise closer and more effective management of compliance and, if an operator is disinclined to take his advice, he should resign and inform my office immediately.
11. If Gurkampreet Singh wishes to retain his good repute, he should attend a two-day transport manager CPC refresher course run by a trade association or professional body by 31 March 2020.

Driver

12. As far as Pargan Singh's HGV driving entitlement is concerned, I have had in mind the Senior Traffic Commissioner's Guidance Document No 6, which posits a 12 month disqualification for drivers committing more than six offences of falsifying tachograph records. By removing his tachograph chart and continuing to drive on 11 occasions within a three month period, Pargan Singh comes into this category. There are no mitigating factors: only the aggravating factor that Mr Singh has been untruthful about the offences. I am therefore imposing the full 12 month disqualification period.

Nicholas Denton

Nicholas Denton
Traffic Commissioner
8 January 2020