



NCN: [2022] UKUT 00211 (AAC)  
Appeal No. UA-2021-000244-T

**IN THE UPPER TRIBUNAL  
ADMINISTRATIVE APPEALS CHAMBER  
(TRAFFIC COMMISSIONER APPEALS)**

**ON APPEAL from a DECISION of the DEPUTY TRAFFIC COMMISSIONER for the  
SOUTH EAST and METROPOLITAN TRAFFIC AREA**

**Before:** M Hemingway; Judge of the Upper Tribunal  
R Fry; Member of the Upper Tribunal

**Appellant:** Mulberry Automotives Ltd

**Reference No:** OK2039751

**Representation:**

**For the appellant:** Mr S Choudry (Director)

**Heard at:** Field House in London

**Date of Hearing:** 19 July 2022

**Date of Decision:** 2 August 2022

**DECISION OF THE UPPER TRIBUNAL**

This appeal is dismissed.

**Subject matter:** Good repute

**Cases referred to:**

*Bradley Fold Travel Ltd & Anor v Secretary of State for Transport* [2010] EWCA Civ 695.

*NT/2013/82: Arnold Transport and Sons Ltd v DOENI*

*T/2012/71: Silvertree Transport Ltd*

## REASONS FOR DECISION

### *Introduction*

1. Mulberry Automotives Ltd (“the appellant”) has appealed to the Upper Tribunal from a decision of a Deputy Traffic Commissioner (“DTC”) which he made on 21 September 2021 following a public inquiry (“PI”) of 14 September 2021, to refuse its application for a goods vehicle operator’s licence. The appellant has two directors being Subash Choudry and Elaine Choudry. The two are married to each other. The basis for the DTC’s decision was his conclusion that the appellant (this conclusion being largely based upon the history and the past conduct of Subash Choudry) was not of good repute.

2. We held an oral hearing of the appeal which took place at Field House in London on 19 July 2022. Although the appellant was not legally represented, Subash Choudry attended before us and made points on his and the appellant company’s behalf.

3. It had been intended that the appeal would be heard by a panel comprising a Judge and two Members of the Upper Tribunal. However, 19 July 2022 was a particularly hot day and that had had a significant adverse impact upon the operation of the United Kingdom’s rail network. Thus, the intended second Member had been unable to travel. The position was explained to Mr Choudry and it was indicated that we would consider postponing if he wished us to do so. However, he clearly indicated that he was content for us to proceed as a two-person panel. We decided to do so because Subash Choudry was content for us to do so; because the issues raised by the appeal were straightforward; and because it seemed to us that no unfairness would result. That, we believe, has proved to be the case.

### *Good repute*

3. Section 2(1) of the Goods Vehicles (Licensing of Operators) Act 1995 (“the Act”) provides, subject to very limited exceptions which have no application here, that no person shall use a goods vehicle on a road for the carriage of goods, for hire or reward or for or in connection with any trade or business carried on by him, except under the terms of the licence issued under the Act. On application for a standard licence section 13(1) of the Act provides that a TC (and it follows a DTC) must consider whether the requirements of sections 13A and 13C are satisfied. Section 13A contains a requirement that an applicant for a standard licence be of good repute in accordance with paragraphs 1-5 of Schedule 3 to the Act.

4. In *NT/2013/82 Arnold Transport and Sons Ltd v DOENI*, the Upper Tribunal stressed the importance, in the context of a consideration as to good repute, of applicant’s or a licence holder’s fitness to hold a licence. It was said that an operator who cannot be trusted to comply with the operator’s licencing regime is unlikely to be fit to hold an operator’s licence.

### *The background and the previous adjudication history*

5. This section of our decision will be a relatively lengthy one. There is an extensive history, and it is important that much of it is set out.

6. Subash Choudry was previously a director of and a transport manager for a company called South-East Express. It was granted an operator’s licence on 12 July 2006. He was also

the sole director of a company called Mulberry Logistics Ltd. which was granted a licence on 7 July 2008. The licence of the latter company was revoked on 4 September 2014 and the licence of the former company was revoked on 6 August 2017. Both companies had gone into liquidation and Subash Choudry had failed to notify the Office of the Traffic Commissioner (“OTC”) that they had. That was something he had been required to do.

7. On 28 April 2014 an application for a restricted goods vehicle operator’s licence was made by Mulberry Automotives Ltd. At the time of the application its sole director was Elaine Choudry. Subsequent enquiries revealed links between that company and Mulberry Logistics Ltd. The DTC who was dealing with that case (the same DTC who made the decision now under appeal before us) decided to hold a PI so that the application could be properly considered. Both Subash Choudry and Elaine Choudry attended the PI. On 8 December 2014 the DTC produced his written decision explaining why he was refusing the application. He had been concerned that Elaine Choudry did not have the knowledge to run the business and that it would, in fact, be run by Subash Choudry who was, in effect, bypassing the need for him to satisfy the good repute and fitness requirements. As to those matters the DTC said this:

“7. Whilst I have considered the submissions carefully, I do not agree with them. As a matter of law Mrs Choudry as the sole director would be responsible for the operator’s licence on behalf of the company and has to demonstrate a level of knowledge and authority in this regard. I am not satisfied that she has done so and I do not accept the suggestions that I should grant the licence with a promise of subsequent training to redress the current deficit.

8. Even if Mrs Choudry had been able to demonstrate knowledge and understanding the reality is that her position would still be a front for Mr Choudry who would be running the business and managing the operator’s licence. Whilst it may be that Mr Choudry could prove fitness this has not been tested and full enquiries as to the winding up of Mulberry Logistics and the disposal of assets have not taken place. If a change in directors takes place and a new application is submitted these are areas which will merit further exploration as will any sub-contracting arrangement which has prevailed whilst no relevant licences have been in force”.

8. Quite shortly after the issuing of the DTC’s above decision, in fact on 14 February 2015, Mulberry Automotives Ltd made a further licence application. This was for a standard national goods vehicle operator’s licence. At the date of that application Elaine Choudry was its sole director but Subash Choudry was its nominated transport manger. Subash Choudry subsequently became a director on 1 April 2015. This application was dealt with by a TC who, perhaps unsurprisingly, decided that matters should once again be considered at a PI. A primary concern for the TC related to an indication that the appellant had been operating a vehicle unlawfully through utilisation of a licence belonging to another operator. Having heard evidence on that matter the TC concluded as follows:

**“Findings**

14. Having considered all the evidence, I make the following findings:

- i) the applicant, Mulberry Automotives Ltd, is not of good repute (Section 13A(2)(b) of the 1995 Act refers). It has clearly been operating at least one vehicle for a considerable period of time. It has never had an operator’s licence, yet it has been the registered keeper of vehicle KE51 OTC since 26 March of 2013. This was the month in which

Mulberry Logistics Ltd. went into voluntary creditors liquidation. At the public inquiry presided over by DTC Baker in December 2014, Mr Choudry stated that KE51 OTV had been used until Mulberry Logistics Ltd's licence had been revoked, which was not until 3 September 2014 because of his failure to notify the company's entry into liquidation. Of course, Mulberry Automotives Ltd. should not have used the vehicle at all as it did not have an operator's licence and the licence of Mulberry Automotives Ltd was not transferable (a fact which Mr Choudry, as a qualified transport manager, should have known). Even after 3 September 2014, Mulberry Automotives Ltd continued to operate the vehicle, supposedly under the guise of licences held by Euro Logistics London Ltd, Darrell's Transport Ltd and MJD Services Ltd. In fact, vehicle KE51 OTV was never specified on the licence of Euro Logistics London Ltd (which was revoked by me on 12 February 2015), was specified on the licence of Darrell's Transport Ltd only between 20 April and 11 May 2015, and was specified on MJD's licence only on 8 July 2015, the very day of the public inquiry. As I heard at the public inquiry, the fact that Mulberry Automotives Ltd. continued to be entirely responsible for operating the vehicle, determining what work it did and responsible for all operating costs, anyway makes clear that the true operator continued to be Mulberry, irrespective of whose licence the vehicle was or was not on. I find that Mulberry Automotives Ltd deliberately continued to operate the vehicle, despite knowing it was unlawful to do so. The "arrangements" with other genuine operator licence holders were completely undocumented and were a pure fig leaf to display the outward appearance of a legal operation. This was an entirely disreputable way to behave;

ii) the company also made false statements in the application form, in that it stated that no one associated with the application had ever had a licence revoked or an application refused. This was simply untrue. It is to (the then sole) director Mrs Choudry's discredit that she did not even bother to read the application form before signing it, when she must have been aware that, thanks to the previous public inquiry, the application would be scrutinised closely. Such a careless attitude approach to the application form does not imply a serious attitude to the need to comply with detailed rules and regulations concerning maintenance and drivers hours. The making of false statements, despite the warning against this contained in the application form, also goes to repute;

iii) The nominated transport manager, Subash Choudry is not of good repute (Section 13A(3)(a) and Schedule 3 paragraph 1 of the 1995 Act refer). As outlined above, as director and transport manager of both South East Express Ltd and Mulberry Logistics Ltd, he failed to notify me of their respective dissolution and entry into liquidation in January 2014 and March 2013, with the result that the respective licences continued in force until August and September 2014, far beyond the dates when they should have been surrendered. Mr Choudry continued to operate at least one vehicle, despite knowing that it was unlawful to do so. If nothing else, letters from CLU dated 25 June 2014 (in respect of the company's first application) and 25 February, 16 March and 20 April 2015 (in respect of the second application) explicitly stated that vehicles could not be operated until a licence were granted. As a

qualified transport manager, Mr Choudry must have known that simply persuading another operator to put the vehicle on its licence while Mulberry Automotives continued to operate it itself was not in compliance with the law, Mr Choudry has shown contempt for that law. I have attempted to assess more positive factors in Mr Choudry's favour: these boil down to an assertion that previous licences were run compliantly. Even if that were true (no evidence was presented), it would be outweighed in my view by the fact that, after two of his companies were liquidated or dissolved, Mr Choudry in effect continued to operate regardless, and despite being told in many letters from CLU that operation before grant of the licence was unlawful. His good repute cannot possibly survive this.

15. As the applicant is not of good repute and its prospective transport manager is not of good repute, the application is therefore refused under Section 13A(2) and (3) of the 1995 Act.

16. As I have found that Subash Choudry is not of good repute, I am obliged under paragraph 16 of Schedule 3 to the 1995 Act to disqualify him from acting as a transport manager under any other licence. I have decided to do so for an indefinite period, as his failures are not such as the mere passage of time can rectify. Before Mr Choudry can be nominated as a transport manager in the future, he must first retake and pass the transport manager in the future, he must first retake and pass the transport manager certificate of professional competence. He must also show that he has resolved to show proper respect for operator licensing law in the future. This should be assessed by a traffic commissioner at a hearing”.

9. That decision was issued on 15 July 2015.

10. On 18 August 2015 an application for a standard national goods vehicle operator's licence was made to the OTC by a company called Mulberry Traction Ltd. Its sole director was Subash Choudry. Again, the application was considered by way of a PI which was held by the same TC who had made the decision which had been issued on 15 July 2015. The PI took place on 17 December 2015. It appears that Subash Choudry, at that PI, sought to suggest that, notwithstanding the same TC's previous findings, he had not knowingly operated a vehicle unlawfully in the past. The TC, in refusing the application, relevantly said this:

“15. Summing up, I consider that Mr Choudry has done nothing that would cause me to revise my finding about his repute. Although Mulberry Traction Ltd is a different company to Mulberry Automotives Ltd, Mr Choudry is essentially the controlling mind. He is not of good repute and I am therefore refusing the application under Section 13A(2)(b) of the 1995 Act.

16. Given that Mr Choudry has persistently operated fuel tanker vehicles without authority over a period of at least a year (and in practice since March 2013 when Mulberry Logistics entered liquidation and its licence should have been surrendered), despite many warnings not to do so from the Central Licencing Unit during Mulberry Automotives Ltd two applications, and in the face of my written decision of 15 July 2015, I consider that a period of at least two years compliance with the law is now required before I could entertain an application from him or one of his companies with any degree of favour. I

accept that he has not operated his HGV tankers since 7 September 2015, so the two years would run from this date”.

11. That decision was made by the TC on 13 January 2016.

12. On 20 May 2016 a company called Petchey and Newland Ltd was incorporated. Subash Choudry was nominated as its sole director. On 18 August 2016 one Laura Golding of Transport Advisory Consultants Ltd sent an email to the OTC advising that that firm of consultants had ceased to represent the company having advised it that it had been operating vehicles illegally because it did not have the requisite licence in force to do so. It is right for us to point out, though, as with various of the other matters referred to above, Subash Choudry denies any wrongdoing or at least he denies knowingly doing wrong.

13. On 1 July 2019 an operator’s licence was granted to a company called Grabaway Ltd. Although not a director at the time, Subash Choudry became one on 30 June 2020. Shortly after, in fact on 9 July 2020, a vehicle he was driving on behalf of that company was stopped by the police. It is noted that he had not been wearing a seat belt, that no licence disc was being displayed, that a fire extinguisher on the vehicle was overdue its annual service, and that the requisite documentation for the carriage of dangerous goods was not in order. Subash Choudry was subsequently prosecuted for offences arising out of that encounter.

#### *The DTC’s decision*

14. As indicated, the application made by Mulberry Automotives Ltd which has led to this appeal to the Upper Tribunal, was considered at a PI of 14 September 2021. Subash Choudry attended that PI but his co-director Elaine Choudry did not. According to the PI transcript, Subash Choudry told the DTC that Elaine Choudry “*didn’t want to come, simple as that. I didn’t know she was required to be here to be honest*”. He said he had not known until shortly prior to it, that the PI had been scheduled for 14 September 2021 notwithstanding that notice had been properly given. He indicated he had not had a proper or detailed look at the papers which had been prepared for the PI. As to the incident when he was driving and had been stopped by the police, he acknowledged he had not been wearing a seatbelt. He had mistakenly thought that there was no problem with the fire extinguisher. He has now cut ties with some previous business associates. He stated he intended to “*apply for my repute back*” as a transport manager at some point in the future. He has arrangements in place for the proper maintenance of commercial vehicles.

15. In his written decision of 21 September 2021, the DTC set out much of the history we have set out above. It is clear that he proceeded on the basis that previous findings made after previous PIs had been correctly made. He noted Subash Choudry’s assurances given to him that if he were to be granted an operator’s licence, he would make sure that it was operated in a way that is “*100% legal*”; that he had completed refresher training courses; and that he was confident he would be able to introduce systems which would ensure full compliance with ongoing licencing requirements.

16. The TC, in explaining why he was refusing the application, said this:

#### “Findings and Decision

15. In considering this case I remind myself that this is an application and it is for the applicant to satisfy me that the statutory criteria for the grant of a licence

are made out. Mr Choudry is one of the co-directors and Mrs Choudry failed to attend the inquiry, so I was unable to assess her repute.

16. In relation to Mr Choudry, I have no hesitation in finding that he has failed to satisfy that he is of good repute. His history as a licence holder and applicant is very poor. He had had previous licences revoked and has had applications refused. When the Traffic Commissioner refused the application by Mulberry Traction Limited in 2015, he directed that Mr Choudry should wait for a period of two years before applying again and during that period be law abiding. Instead of waiting for that time Mr Choudry set up an arrangement with the partnership comprising David Newland and Mark Petchey whereby he operated vehicles unlawfully through their licence. I do not believe him when he said that he was unaware of the unlawfulness of what he was doing. It is apparent from the correspondence submitted by the transport consultant Mrs Golding that she advised him that he could not continue to operate in this way and instead of stopping he continued to do so until the licence was terminated in November 2019.

17. Since the termination of the partnership licence in 2019 Mr Choudry has continued to operate initially through Grabaway Limited where he committed the offences referred by the police report. Following the revocation of that licence he was a director for Bains Logistics Limited for a period and the very recent bank statements submitted by Mulberry Automotives Ltd. led to the strong suspicion that he has continued to unlawfully operate vehicles currently authorised under the Bains licence.

18. It follows from my findings that I refuse the application on the ground that good repute of the operator is not made out because of what I have found in relation to Mr Choudry and the failure by Mrs Choudry to attend the inquiry. I direct that the DVSA should be advised of my findings and to consider impounding action if it is found Mr Choudry is continuing to operate despite the fact that he is not authorised to do so.

19. As Mr Newland is not approved on any licence as a transport manager, I am unable to take action against him. If I had been I would have considered as negative the history of links with Mr Choudry and suggest that if he ever applies to be a transport manager again, he distances himself fully from Mr Choudry and any companies he is involved in”.

17. The appellants’ appeal to the Upper Tribunal followed.

*The grounds of appeal*

18. The grounds of appeal to the Upper Tribunal have been prepared by Mr Subash Choudry himself. On our reading there are six grounds of appeal which we would summarise as follows:

Ground 1 – it was correct that there had been a failure on the part of Subash Choudry to inform the OTC of the liquidation of two companies and to surrender the relevant licences. But it must be borne in mind that no vehicle safety concerns had ever arisen with respect to either company.

Ground 2 – whilst it was true, as the DTC had found in 2014, that Subash Choudry had intended to run Mulberry Automotives Ltd under the terms of the restricted licence it had applied for, himself, it had nevertheless been unfair to refuse that licence application because it had been made by his wife.

Ground 3 – Subash Choudry had never knowingly operated any vehicles unlawfully, previous decisions which had been made to that effect had been wrong, and the DTC should not have relied upon those findings when making his decision of 21 September 2021.

Ground 4 – a solicitor who had acted for Subash Choudry in the past had told him that the TC who had resolved matters against him on 15 July 2015 and 13 January 2016, didn't like him. Thus, there is reason to think that that TC had been biased.

Ground 5 – it is true that Subash Choudry was intending to “*take over Grabaway Ltd*” but that was only because he was, at the time he became involved in that company “*still scared*” of making a licence application himself.

Ground 6 – Subash Choudry has already been punished by the Courts and the DVSA for previous misconduct. Thus, the decision of the DTC of 21 September 2021 unfairly punishes him again.

### *The hearing of the appeal*

19. At the hearing of the appeal Subash Choudry, essentially, maintained and repeated what he had indicated in the written grounds of appeal. He asserted that, since 2008, he had held ten operator's licences and there had been no difficulties or issues with respect to the safe running of the commercial vehicles operated under the terms of those licences. He had pleaded guilty to the offences which had led to his prosecution. But the court had been “*quite pleased*” with an explanation he had offered to it by way of mitigation. In 2014 he had thought he would probably not succeed with respect to a licence application made in his name and that was why an application had been made in the name of Elaine Choudry. Neither of them had anticipated that there would be problems in obtaining the restricted licence which had been sought. He has not appealed previous decisions of Traffic Commissioners or Deputy Traffic Commissioners because he thought he would not be successful in doing so. He has tried to be as honest as he can be. As to the contentions that he has been “*fronting*” he had financial problems and had to generate an income somehow. The DTC who had decided the application on 21 September 2021 should not have followed the previous findings of the TC. He has been the victim of unfairness. People normally get refused licence applications because of the way they have operated their vehicles not because “*people don't like them*”.

### *Our approach on an appeal such as this*

20. The Upper Tribunal's powers on an appeal are set out at paragraph 17 of Schedule 4 to the Transport Act 1985 (as amended). Accordingly, the Upper Tribunal has full jurisdiction to hear and determine all matters (whether of law or of fact) for the purpose of the exercise of their functions under an enactment relating to transport. On an appeal from any determination of a TC the Upper Tribunal has the power to make such order as it thinks fit or to remit the



matter to the TC for rehearing and determination. But the Upper Tribunal may not, on any appeal to it, take into consideration any circumstances which did not exist at the time of the determination which is the subject of the appeal.

21. The Upper Tribunal's jurisdiction was examined by the Court of Appeal in *Bradley Fold Travel Ltd & Anor v Secretary of State for Transport* [2010] EWCA Civ 695. It was explained that the Upper Tribunal is not required to rehear all of the evidence by conducting what would, in effect, be a new first instance hearing. Rather, it has the duty to hear and determine matters of fact and law on the basis of the material before the TC but without the benefit of seeing and hearing from witnesses. Further, it was said that in order to succeed, an appellant must show not merely that there are grounds for preferring a different view but that there are objective grounds upon which the Upper Tribunal ought to conclude that the different view is the right one. The appellant, to succeed, must show that the process of reasoning and the application of the relevant law requires the Upper Tribunal to adopt a different view.

#### *Our reasoning on the appeal*

22. As to ground 1, we would accept that there is no evidence in the material before us that there were any concerns of substance with respect to the question of whether vehicles were being operated safely under the terms of the licences which had been held by South East Express Ltd and Mulberry Logistics Ltd. But nobody has suggested that there were any such issues relating to those companies. The DTC who made the decision under appeal before us did not make any findings to that effect. He based his decision on other matters of concern. If Subash Choudry's contention was a wider one to the effect that licence applications ought not to be refused on grounds other than those specifically relating to adverse vehicle safety history (and he did seem to come quite close to this when addressing us at the appeal hearing) we would have to emphatically disagree. It is obvious from a perusal of the legislation which underpins the regulatory regime that there are many areas subject to control and regulation apart from those matters which relate directly and specifically to vehicle maintenance and driver's hour requirements. An applicant or a person operating under the terms of a licence cannot pick and choose which parts of the regulatory regime he or she wishes to comply with. Further, the aim of the regime is not simply to act when something goes wrong but to ensure requirements are complied with in order to prevent such a situation arising. Thus, an applicant must aim to and can be expected to comply with all aspects of the regime and cannot credibly argue that he ought not to be the victim of regulatory action when he does not. We find this ground of appeal to be unpersuasive.

23. As to ground 2, this ground relates to a decision taken as long ago as 8 December 2014, but the conclusions reached then were matters taken into account by the DTC when he made his decision under appeal. Essentially, Subash Choudry contends that Elaine Choudry's application for a restricted licence ought to have been granted and that, therefore, the fact of the refusal ought not to have been held against him.

24. It is clear that Subash Choudry did not think at the time, that if he were to make an application in his own name or if a company of which he was a director were to make an application, it would be granted. He has effectively acknowledged as much himself. The DTC in his decision of 8 December 2014 decided that he had been guilty, of "fronting" given that Elaine Choudry would not have been able to operate the licence herself and that he would, effectively, have been running the business and managing the operator's licence. Subash Choudry has acknowledged in his written grounds of appeal that he intended to run the

business himself. Given that he was expressly attempting to avoid the attention of the regulatory regime prior to operating a business covered by the licencing system which forms the cornerstone of that regime, his conduct was a matter of serious concern. In our view it clearly amounts to fronting. Fronting was described by the Upper Tribunal in *T/2012/71: Silvertree Transport Ltd* in this way:

“Another way in which to describe the situation would be to say that: “fronting” occurs when appearances suggest that a vehicle (or fleet), is being operated by the holder of an Operator’s Licence when the reality is that it is being operated by an entity (i.e. an individual, partnership or company), which does not hold an operator’s licence and the manner in which the vehicle is being operated requires, if the operation is to be lawful, that the real operator holds an Operator’s Licence”.

25. Seeking to circumvent the circulatory regime was a matter which the DTC who made the decision under appeal before us was perfectly entitled to take into account when considering the question of repute. This ground of appeal is unpersuasive.

26. As to ground 3, Subash Choudry asserts, in effect, that the findings of the TC of 15 July 2015 are set out at paragraph 14(i) were incorrect. However, the findings are well reasoned and cogently explained. He did not seek to appeal the decision which rested upon those findings, to the Upper Tribunal. Those findings were made after a PI at which Subash Choudry gave evidence. Against that background we are comfortably satisfied that the DTC was entitled to take them into account when reaching his view, on 21 September 2021, with respect to repute. He was also entitled, having heard and considered the evidence, and bearing in mind the actions of Transport Advisory Consultants Ltd as referred to above, to conclude that there had been further similar wrongdoing. This ground is unpersuasive.

27. As to ground 4, this is really an assertion that the TC who made two adverse decision with respect to Subash Choudry and companies run by him, was biased. All that seems to be argued in support of that contention is a claim that a solicitor who had represented Subash Choudry had suggested that the TC who had made those decisions did not like him. There is, of course, no independent confirmation that any solicitor had expressed such a view or, if one had, any explanation as to how it had been arrived at. There is no information offered as to the context in which any such comment was said (if it was said). A decision maker is not biased simply through making a decision or decisions with which a party disagrees. The ground is unpersuasive.

28. As to ground 5, whether Subash Choudry was “*still scared*” of making his own licence application is not relevant. He was seeking to use Grabaway Ltd. as a further device by which he might circumvent the licencing regime. Again, he appears to have acknowledged that he had such an intention, in his written grounds of appeal: “*I was and still scared of making a application. So I was going to take over Grabaway Ltd*”. This is just another attempted fronting exercise and the DTC was entitled to treat it as such and to treat it as a matter weighing against the appellant with respect to its repute and the merits of its licence application. The ground is unpersuasive.

29. As to ground 6, it is true that Subash Choudry and companies run by him have received previous adverse decisions because of previous wrongdoings. It is true that Subash Choudry has been convicted and sentenced (by way of fines) for the offending referred to above when he was apprehended by the police whilst driving a vehicle. He says, in effect, that

those matters should not have been taken into account by the DTC because he has already been “*punished*” for them. But what he is effectively saying is that his adverse history should not matter at all with respect to an assessment, on an application for a licence, with respect to repute. That is clearly wrong. It would be absurd if adverse history, could not be considered in an application where there is a requirement to show good repute. The DTC was fully entitled to take into account the relevant history in deciding whether to grant or refuse the application. The ground is unpersuasive.

30. So, we have rejected all of the individual grounds of appeal relied upon before us. Further, we can detect no error of law or error of approach of any sort on the part of the DTC. The history was a very poor one involving what was found to be the knowing unlawful use of vehicles and two incidents of attempted fronting. There was also the matter of the convictions to be considered and we would stress, with respect to that, the recklessness in not possessing the requisite dangerous load paperwork when undertaking the journey. The TC was not plainly wrong in deciding matters as he did and indeed, given the history, it is very difficult to see how the DTC could rationally have granted the licence or could rationally have reached a different view with respect to repute.

*Decision*

31. This appeal to the Upper Tribunal is dismissed.

**M R Hemingway**  
**Judge of the Upper Tribunal**

**R Fry**  
**Member of the Upper Tribunal**

**Authorised for issue on 2 August 2022**