

(1995) 04 MAD CK 0044

In the Madras High Court

Case No : Writ Petition No's. 4933 and 4934 of 1995

Anna Transport Corporation Limited

APPELLANT

Vs

N. Ramasamy, etc.

RESPONDENT

Date of Decision : 03-04-1995

Acts Referred:

Central Motor Vehicles Rules, 1989 — Rule 248
Motor Vehicles Act, 1988 — Section 217(2), 69

Citation : AIR 1996 Mad 82 : (1995) 2 LW 584 : (1995) WritLR 634

Hon'ble Judges : Jayasimha Babu, J

Bench : Single Bench

Advocate : M. Palani, for the Appellant; R.S. Ramanujam, for the Respondent

Judgement

Jayasimha Babu, J.—The petitioner is aggrieved by the timing conference convened by the 2nd respondent. That conference was convened

pursuant to the direction given by this Court in a writ petition filed by the 1st respondent to implement the order of the State Transport Appellate

Tribunal which has granted variation of the permit held by the 1st respondent.

2. Counsel for the petitioner submitted that the order of the Tribunal having been made under the provisions of the repealed enactment, the 1st

respondent is bound to obtain counter-signature of the Regional Transport Authority of the other District and on account of variation, the route has

now become a inter-district route. Counsel, however, fairly pointed out that a learned single Judge of this Court has held in W.P. 18668 of 1992

that the provisions of the old Act are not applicable and that the permit will be governed by the provisions of the new Act after the new Act came

into force. It was, however, submitted that the petitioner has filed a Writ Appeal against that judgment and therefore, this Court should not follow

the judgment the correctness of which is pending adjudication in the Writ Appeal.

3. I have examined the matter independently of that judgment and I concur with the view expressed therein. The Motor Vehicles Act, 1988 has repealed the Motor Vehicles Act, 1939. Sub-section (2) of Section 217 of the Act provides for saving of certain portions and continued applicability of the provisions of the repealed Act and the rules made thereunder in respect of certain matters. Section 217(2)(b) provides that a certificate of fitness or registration or licence or permit issued or granted under the repealed enactments shall continue to have effect after such commencement under the same conditions and for the same period as if this Act of 1988 had not been passed.

4. Counsel relying upon that provision of Section 217(2)(b) of the Act, submitted that the variation of permit having resulted in the route having become inter district route, the concurrence of the Regional Transport Authorities of the neighbouring districts which was a requirement under the repealed Act, would continue to govern the implementation of the order even after that Act was repealed and replaced by the new Act.

5. I am unable to agree with this submission. All that Section 217(2)(b) of the Act says is that the action which had been taken under the earlier enactment which has been validated even after the commencement of the new Act, would continue to be governed by the provisions of the repealed enactment. An order which had not been implemented and is to be implemented for the first time after the new enactment came into force, is not governed by S. 217(2)(b). The provision applicable is S. 217(2)(a) which provides inter alia, that anything done and any action taken under the repealed enactment and in force immediately before such commencement to the extent not inconsistent with the new Act shall be deemed to have been done or taken the corresponding provision of the Act.

6. The order of variation though made while the repealed enactment was in force has to be deemed to have been made under the corresponding provisions of the 1988 Act.

7. The Act of 1988 was passed with a view to simplify the law and restrictions under the repealed law are not to be regarded as having been continued unless the intention to continue such restrictions has been clearly and unambiguously spelt out in the Act itself. Such restrictions cannot be

read into Act by inference.

8. When a new permit can be granted under the provisions of the new Act without any counter-signature, no useful purpose would be served in

insisting upon such counter-signature from the Regional Transport Authority of the neighbouring District, while implementing the order made under

the provisions of the repealed enactment. The view taken by the respondent that it is not necessary for the 1st respondent to obtain counter-

signature, is in accordance with the provisions of the Act, 1988.

9. The only other point that was urged was that Rule 248 had not been complied with inasmuch as existing proposed timings have not been set out

in the notice convening the timing conference. The counsel for the 1st respondent submitted that an errata had been issued to that notice although

the errata is not readily available for perusal by this Court, if such errata has not been issued so far, a fresh timing conference may be convened

setting out the existing, and proposed timings and conference may be held in accordance with law after following the prescribed procedure.

10. The Writ Petitions are disposed of accordingly.

11. Order accordingly.