

(1962) 08 KL CK 0027
In the High Court Of Kerala
Case No : W.A. No. 75 of 1962

Cannanore District Motor Transport Employees Co-operative Society No. LL218 APPELLANT

Vs

State Transport Appellate Tribunal, Ernakulam and Others RESPONDENT

Date of Decision : 10-08-1962

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1962) KLJ 1419

Hon'ble Judges : M.S. Menon, C.J;P. Govindan Nair, J

Bench : Division Bench

Advocate : K. Velayudhan Nair and K.J. Joseph, for the Appellant; C.M. Kuruville for Respondents 1 and 2, V.R. Krishna Iyar and K.C. Sankaran for Respondent 3, for the Respondent

Final Decision : Dismissed

Judgement

P. Govindan Nair, J.—In this appeal by the writ petitioner in O. P. 1666 of 1961 his counsel urged that the view taken by Vaidialingam J. the learned Judge who dismissed the writ application is erroneous and requires reconsideration. The learned Judge has assumed in the order under appeal that this Court in the Full Bench decision in 1962 K. L. T. 446 has approved the decision of the Madras High Court in 69 L. Weekly Journal section (Short Notes 95). We think that counsel for the appellant is justified in his submission that this assumption made by the learned Judge is erroneous. What has been held by the Full Bench and the only point that arose for decision in that case was whether the experience gained by the issue of a permit to one of the applicants which is cancelled later on should be taken into account as a subsequent event which is material for the disposal of the appeal. The question whether such experience would be of any use in other proceedings was not decided in the Full Bench case, or even considered. The Madras High Court decision in 69 Law Weekly was referred to but was neither concurred in nor dissented from. That question so far as this Court is concerned is still open. We do not think that we are called upon to decide that question in

this case. That has to be left open even now for decision in an appropriate case in future.

2. The State Transport Appellate Tribunal in this case has given several reasons for choosing the 31st applicant in preference to the appellant the 14th applicant; that the former possessed a work shop and had a bus and also that he had larger experience in the industry. It was also assumed that he had a better sector qualification than the appellant, perhaps, on the erroneous view, that the experience gained on the cancelled permits are not material. We do not think that this erroneous view, assuming that it is erroneous, has substantially influenced the State Transport Appellate Tribunal in its conclusion. In any view of the matter, we are not satisfied that this is a case in which we should interfere under Art. 226 and quash the order of the State Transport Appellate Tribunal and direct him to consider the matter afresh. We, therefore dismiss the appeal, but make no order as to costs.