

**(1955) 12 AP CK 0007**  
**In the Andhra Pradesh High Court**  
**Case No : Writ Petition No. 295 of 1954**

Ch. Anjaiah

APPELLANT

Vs

The Regional Transport Officer

RESPONDENT

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**Date of Decision :** 09-12-1955

**Acts Referred:**

Constitution of India, 1950 — Article 220  
Motor Vehicles Act, 1988 — Section 58(2)

**Citation :** AIR 1957 AP 470 : (1956) ALT 347

**Hon'ble Judges :** Subba Rao, C.J; Bhimasankaram, J

**Bench :** Division Bench

**Advocate :** P. Babulu Reddi, for the Appellant; M. Seshachalapathy, Government Pleader, for the Respondent

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## Judgement

Bhimasankaram, J.

1.This is an application for the issue of a writ of prohibition restraining the Regional Transport Officer, Guntur from enforcing against the Petitioner has order dated 30th October, 1953.

2. The Petitioner is a Motor-transport operator with a stage-carriage permit on the route from Tenali to Gherukupalli. The bus which he runs on the route is registered as M.D.G. 1669. On 19th September, 1953, during one of its Journeys on the route, it was checked by the Motor Vehicles . Inspector and according to him there was an overload of 9 persons. The Respondent then directed the suspension of the Petitioner's permit for a period of six weeks from the date when alternative arrangements could be made. The Petitioner preferred an appeal to the Central Road Traffic Board and thereafter a revision petition to the State Government in vain.

At the time when the overload was discovered, the permit in favour of the Petitioner which was in force was then due to expire on 6th March, 1954. The Petitioner applied in time for the renewal of the permit. The permit was

accordingly renewed with effect from 7th March, 1954, till 6th March, 1955. The order of the Government dismissing After revision petition was made on 22nd March/1954. During the period of the pendency of appeal to the Central Road Traffic Board and his revision before the Government, the Operation of the order of suspension was stayed. "The result is that the order of suspension is now sought to be enforced as against the renewal permit. The Petitioner contends that the order suspending his previous permit cannot be enforced" against the permit under which he is now running the bus.

3. The Petitioner relies on an unreported decision of one of us, a short-note of which appears in *Nagabhushanam v. Regional Transport Authority, West Godavari*, C.M.P. No. 2311 of 51: (1951) 2 Mad LJ (NRC) 59 (A). That was a case where an order suspending a temporary permit granted u/s 62 was sought to be put into effect against a regular permit subsequently issued. It was decided therein that it could not be done, the reason being that the penalty for non-compliance with the conditions of one permit could not be exacted in relation to Anr. permit. The learned Government pleader points out that there is a difference between a regular permit superseding a temporary one and a second permit which is merely a renewal of the earlier one. He refers to the language of the Rule 183 of the Madras Motor Vehicles Rules which provides that the application for the renewal of a permit shall be made in Form FRA. He also refers to the form PSP which is the form prescribed for a permit in respect of a particular stage-carriage. Under the heading "renewals" below the body of the form, is found the following entry:

This permit is hereby renewed upto the day of 19 subject to the following further conditions: Date 19. Secretary, Transport Authority." He contends that a renewed permit is really a continuation of the old permit and hence a breach of a condition in the old permit can be punished by an order of suspension enforceable against the renewal permit. Reference may be made in this connection to the provision for the renewal of a permit made in Sub-section (2) of Section 58 of the Motor Vehicles Act which runs thus:

58. (2) A permit may be renewed on an application made and disposed of as if it were an application for a permit:

Provided that, other conditions being equal, an application for renewal shall be given preference over new applications for permits.

4. Both the learned Counsel rely on a decision of the Madras High Court reported in *Muthuvadivelu v. Regional Transport Officer, Vellore* 68 Mad LW 861: (AIR 1956 Mad 143) (B). It was held in that case that though for certain purposes, a renewed permit may be treated as a fresh permit, still if the original permit was invalid, the renewed permit cannot be valid. The Petitioner in that case was granted a stage-carriage permit by the Regional Transport Authority. A rival applicant successfully appealed to the Central Road Traffic Board and obtained the permit for himself. Thereupon, the Petitioner applied in revision to the

Government and obtained stay of the operation of the order of the Board pending the disposal of his revision petition. His revision petition was finally dismissed. He then filed a writ petition under Article 220 Of the Constitution to the Madras High Court seeking a writ of certiorari quashing the orders of the Government and the Board.

Along with that petition, he filed a petition for stay of the order of the Board. Stay was ordered and at the final hearing of the writ petition itself, the order of the Central Road Traffic Board was quashed while it was declared that it was open to the authorities to consider the applications for permit afresh. Following upon that order, the Central Road Traffic Board once again granted the permit to the Petitioner trivial. There were a further revision petition and a further writ petition to the High Court both of which however went against the Petitioner. During these periods too, the operation of the order of the Central Road Traffic Board giving the permit to the Petitioner's rival was suspended. In the meanwhile the period for which the original permit was granted expired and the Petitioner applied for a renewal for a fresh period which was granted. There was a subsequent renewal too. After the termination of all the proceedings adversely to the Petitioner, the 2nd Respondent in that case to whom the permit was accorded applied to the Regional Transport Authority that he should be given the benefit of his success and sought the grant of the permit in his favour. The Regional Transport Authority passed an order calling upon the Petitioner to surrender the renewed permit in favour of the 2nd Respondent.

The Petitioner thereupon approached the High Court once again and contended that the renewed permit is for all purposes a new permit and the fact that the original permit in his favour was not valid for having been set aside by the Appellate Authority, would not affect the validity of the renewed permit. While stating that the question was not free from difficulty, their Lordships observed that they reached the conclusion in that case by relying "on general principles of equity and fairness and having" regard to the implications of the material provisions of the Motor Vehicles Act and the rules framed there under" In the course of their judgment, their Lordships referred to an earlier decision of Rajagopala Aiyangar J., who it was that directed the case before them to go before a Bench - wherein the learned Judge held that a renewed permit was in effect a new permit, so as to enable the Transport Authority to impose new conditions to which the original permit was not subject. Then their Lordships proceeded to say:

After giving the question our deepest consideration, we have arrived at the conclusion that though for certain purposes a renewed permit may be treated as a fresh permit, the validity of a renewed permit depends on the validity of the original permit.

5. The question before us now is whether this case has to be decided with reference to the rule enunciated by Rajagopala Aiyangar, J., or with reference to the other rule. The matter is res integra and to use the words of their Lordships

in that case "must be decided with reference to the general principles of equity and fairness and having regard to the implications of the material provisions of the Motor Vehicles Act, and the Rules framed there under"

6. The words "renewed" and "renewal" occurring in Sub-section (2) of Section 58 are, in our opinion, clearly not words of Article Indeed, Mr. Seshachalapathi for the Government does not dispute it. There can hardly be any analogy between a renewed lease or even a renewed promissory note and a renewed permit within the meaning of this Act. The word "renewal" in our opinion is merely used to enable the Government to give preference to the previous permit-holders who are quite properly, to be treated on a different footing from new applicants. There is no right of renewal as such and when a permit is renewed, there is no right either on the part of the permit-holder to insist upon the continuance of the old terms. It would be undesirable that there should be any such restrictions upon the right of the authorities- to grant the permit to any body they choose or subject to any conditions that they think it to be necessary" to impose, provided that they are acting all the time in the public interest and subject to the provisions of the Motor Vehicles Act and the Rules made thereunder. These words must therefore be interpreted in their popular sense. Section 60 of the Act which empowers the Transport Authority to cancel or suspend a permit may also be read in this connection. The material portion of it is as follows:

60. (1) The Transport Authority which granted a permit may cancel the permit or may suspend it for such period as it thinks -

(a) on the breach of any condition specified in Sub-section (3) of Section 59. or of any condition contained in the permit, or (b) if the holder of the permit uses or causes or allows a vehicle to be used in any manner not authorised by the permit, or (c) if the holder of the permit ceases to possess the vehicle or vehicles covered by the permit or (d) if the holder of the permit has obtained the permit by fraud or misrepresentation.""" If in a particular case a permit-holder violates one of the conditions contained in the permit, can ah order suspending that permit be made effective as against a renewed permit which may not contain the same conditions?

7. Now, according to the Act, the word "permit" means the document issued by a Provincial or Regional Transport Authority authorising the use of a transport vehicle as a contract carriage, or stage-carriage, or authorising the owner as a private carrier or public carrier to use such vehicle." (See Section 2, Clause (20) of the Act). When Section 58 (2) deals with the renewal of a permit, it thus deals not only with a permit relating to a stage-carriage but also with other kinds of transport vehicle, such as, for instance, a motor cab. Thus there is a stage-carriage permit, a public carrier"s permit, etc. Section 58 (2).: therefore includes not only the stage-carriage permits in regard to which there may be competition every time when an application is made for renewal but also other permits which are almost automatically renewed, such as one in the case of a motor-cab or one authorising an owner to use a vehicle as a private-carrier.

The words "renewed" and "renewal" need not therefore necessarily carry the same meaning in all cases. An applicant for renewal of a stage carriage permit along a particular route will generally have to survive competition along with other applicants when he applies for renewal and all that he can claim is a preference over Ors. if other conditions are equal. Where therefore a permit is granted to him once more, it cannot, in our opinion, be treated as the old permit extended for a fresh period. In fact, as pointed out above, the language of Section 58 is, in our opinion, wide enough to cover both the cases of almost automatic renewal and cases where the old permit-holder will have to stand fresh competition. While in the case of a renewal of a permit of a motor-cab, it may not be inappropriate to describe the new permit as an old permit with an extended period, the same cannot be said of a stage-carriage permit granted to the holder of a previous permit.

In a case therefore like the present one, we are of the opinion that what is granted is in essence a new permit and that it is not a mere continuance of the old one. A renewal therefore in this sense would only mean permit which, is granted for fresh period or which replaces the old one by a new one. We hold accordingly, that the suspension order passed for breach of one of the conditions of the old permit cannot be enforced against the permit now in force.

8. A writ of prohibition will therefore issue against the Respondent directing him to desist from the enforcement of his order dated 30th October, 1953, against the Petitioner. The Petitioner will be entitled to his costs. Counsel's fee Rs. 100.