

(1994) 01 MAD CK 0091
In the Madras High Court

D. Sampath

APPELLANT

Vs

Regional Transport Authority

RESPONDENT

Date of Decision : 03-01-1994

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Motor Vehicles Act, 1939 — Section 64B

Citation : (1994) 2 MLJ 32

Hon'ble Judges : Raju, J

Bench : Division Bench

Judgement

Raju, J.—The above revisions involve common and identical issue and submissions have been also made by learned Counsel on either side in common. Hence, they are dealt with together.

2. C.R.P. No. 1542 of 1985 has been filed u/s 64-B of the Motor Vehicles Act, 1939, read with Section 115 of the Code of Civil Procedure, challenging the order of the State Transport Appellate Tribunal, Madras in Appeal No. 856 of 1983, confirming the order of the Regional Transport Authority, North Arcot, in his proceedings, R. No. 45/5236/82, dated 4.6.1983, where under the Regional Transport Authority ordered suspension of the stage carriage permit in respect of the bus TNJ.4509 belonging to the petitioner for one day with option to compound the offence on payment of Rs. 300 for an offence or overload of three adult passengers. The basis of the charge which culminated in the above orders is that on 10.5.1979 at about 230 p.m. On Sankarapuram-Tirukoilur Road, when the Sub Inspector of Police, Sankarapuram, stopped and checked the vehicle in question, there were 63 adult passengers excluding the driver and conductor as against the permitted seating capacity of 60 passengers. On a report being sent by the checking officer to the Regional Transport Authority, South Arcot, who forwarded the connected records and check report to the Regional Transport Authority, Vellore, a charge-memo was issued and in the absence of any explanation by the petitioner in spite of opportunity granted therefor, the Regional Transport Authority, North Arcot at Vellore, ordered the suspension as

above. The appeal filed thereon before the State Transport Appeal to Tribunal, Madras, also filed. Hence, the above revision.

3. C.R.P. No. 1543 of 1985 has been filed by the petitioner against the order of the State Transport Appellate Tribunal, Madras, in Appeal No. 803 of 1983 confirming the order of the Regional Transport Authority, North Arcot at Vellore, in his proceedings, R. No. A5/52371/82, dated 27.4.1983, suspending the stage carriage permit in respect of the bus TNJ.4509 belonging to the petitioner for one day with option to compound the offence on payment of Rs. 300 for an offence of overload of five adult passengers. The basis of the charge is that on 18.2.1981 at about 5.45 p.m. on Sankarapuram-Moongilthuraipettu Road at Melsiravellore, when the Motor Vehicles Inspector, Gr. I, Ulundurpet, stopped and checked the vehicle in question, there were 65 adult passengers excluding the driver and conductor as against the permitted seating capacity of 60 passengers. The Checking Officer appears to have sent a report to the Regional Transport Authority, South Arcot, who forwarded the same to the Regional Transport Authority, Vellore, and the said Authority, after issuing a charge memo, and in the absence of any explanation from the petitioner in spite of opportunity granted, has passed the order dated 27.4.1984, suspending the permit relating to the vehicle for one day as stated above. The appeal filed against the same before the tribunal also filed. Hence, the revision.

4. Mr. V. Manivannan, learned Counsel for the petitioner, contended that the Regional Transport Authority, North Arcot at Vellore, had no jurisdiction or authority to initiate proceedings and impose the penalty by way of suspension for the alleged irregularity or contravention of the provision by means of overloading and that it is the Regional Transport Authority, South Arcot, which would be the competent authority to take any action against the petitioner in respect of the offence or violation noticed within the territorial limits of South Arcot District, coming under the jurisdiction of the Regional Transport Authority, South Arcot. The learned Counsel sought to substantiate the said claim on the ground that the permit in question with reference to the stage carriage under consideration was in respect of an inter-district route and that though the primary permit was issued by the Regional Transport Authority, North Arcot, counter-signature was duly obtained from the Regional Transport Authority, South Arcot District and having regard to the indisputable position that the place of inspection and check of the stage carriage was within the jurisdiction of the Regional Transport Authority of South Arcot, action could have been initiated for such a violation noticed only by the Regional Transport Authority, South Arcot. Learned Counsel also contended that the decision in Gajalakshmi Ammal Manonmaniammal Bus Service Vs. The State Transport Appellate Tribunal, Madras and Another, is no longer good law in view of the decision of the Supreme Court in The State of Karnataka and Another Vs. Shri Ranganatha Reddy and Another, and that, therefore, the State Transport Authority ought to have sustained the objection of the petitioner with reference to lack of jurisdiction in the Regional Transport Authority, North Arcot at Vellore, to proceed

against the petitioner in respect of the violation noticed at a place within the jurisdiction of the Regional Transport Authority, South Arcot.

5. Before advertng to the relevant decisions and the submissions of the learned Counsel, a reference maybe made to the relevant provisions under the Motor Vehicles Act, 1939, which were in force at that time. Section 60(1)(a) of the said Act provided that the Transport Authority "which granted a permit" may cancel the permit or may suspend it for such period as it thinks fit on the breach of any condition specified in Sub-section (3) of Section 59 or of any condition contained in the permit. It is under the said provision and inasmuch as the primary permit indisputably in the case on hand has been issued by the Regional Transport Authority, North Arcot at Vellore, that the impugned action was taken and the initial order for suspension came to be passed by the said authority. An identical issue arose before a Division Bench of this Court in *Gajalakshmi Ammal Manonmaniammal Bus Service Vs. The State Transport Appellate Tribunal, Madras and Another*, . That was a case, where the appellant before the Division Bench was granted a permit by the Regional Transport Authority, North Arcot, for running a bus from Tiruvannamalai in North Arcot District to Pondicherry and a part of the route lay in South Arcot District. The permit granted to the appellant before the Division Bench was, therefore, countersigned by the Regional Transport Authority, South Arcot. On a particular day, a surprise check of the running bus was made at Velavanur in South Arcot District and action for the violation noticed was initiated, as in the present case, by the Regional Transport Authority, North Arcot. As in the case before me, the appellant before Division Bench raised a plea, placing reliance upon Section 63(3) of the Motor Vehicles Act, 1939, which stated that the provisions of the Chapter relating to the grant, revocation and suspension of permits shall apply to the grant, revocation and suspension of counter-signature of permits. It was contended before the Division Bench that the Regional Transport Authority having jurisdiction over the place where the misconduct of the operator was discovered, viz. the Regional Transport Authority, South Arcot, alone could initiate action to suspend the permit and not his counterpart in North Arcot District, albeit it was the said authority who issued the primary permit. The conclusions of the Division Bench which in my view would squarely apply to the case on hand and on which reliance was also placed by the State Transport Authority, are as hereunder:

There can be no doubt that overloading of passengers in a stage carriage is a breach of the conditions of the permit. Section 63 relates to the issue of permits over inter-district routes. Sub-section (1) of that section provides that a permit granted by the Regional Transport Authority of one region could be valid for another region, if the Regional Transport Authority of the latter region counter-signs the permit. It follows from the provisions of the section that the original or primary permit is granted u/s 60 and that Section 63(1) only provides for its validation by a counter-signature. Section 63(3) only means that the power of suspension would apply even in regard to breach of a condition with respect to inter-district permits i.e., it confers a power on the authority granting the

primary permit to take cognisance of offences in the course of the route, even though such route is outside his jurisdiction and to cancel or suspend the permit, if there as a breach of any condition relating to the same. We are therefore of opinion that the Regional Transport Authority of North Arcot, who issued the original permit, had jurisdiction to impose punishment in respect of the breach of the conditions of the permit, even if any such breach took place in the South Arcot District.

Learned Counsel next contended that the Regional Transport Authority at North Arcot could impose punishment only within the limits of his district and there being no valid order by the counter-signing authority in regard to the South Arcot District the bus should be permitted in the South Arcot District. Section 60 provides for punishment of breach of condition of any permit. It has no regard for the place at which the offence took place. The permit is one and indivisible and, when authority is given to the Regional Transport Authority u/s 60 to cancel or suspend the permit, what is contemplated is a suspension of the whole permit and not suspension in relation to a part of the route." The submission of learned Counsel for the petitioner which has been made before the Tribunal and once again reiterated before this Court, is based upon the decision of the Supreme Court in *The State of Karnataka and Another Vs. Shri Ranganatha Reddy and Another*, . The learned Counsel, relying upon the observations and conclusions in Paragraph 34 of the said judgment, that the permits granted by one Regional Authority and counter signed by another Regional Authority, either in the same State or in different States, are really different permits rolled into one, contended that the observations of the Division Bench of this Court that the permit is one and indivisible, no longer can be said to be good law and consequently this Court must sustain the objection notwithstanding the decision of the Division Bench of this Court referred to supra. I am afraid I can countenance such a plea at the instance of the learned Counsel for the petitioner. First of all, the observations of the Supreme Court in paragraph 34 of the judgment relied upon for the petitioner came to be made in the context of the competency of the State of Karnataka to acquire a permit operative outside that territory of the State of Karnataka by virtue of the counter-signature granted by the authorities outside that State, It is in the context of such a submission challenging the legislation made by the Karnataka State Legislature to acquire an interstate permit initially granted by the Karnataka Authority, but in respect of which a counter-signature has been obtained from another Regional Authority outside the State of Karnataka, insofar as that portion of the permit which related to the right to ply the vehicle in question outside the State of Karnataka, that the observation came to be made by the Supreme Court that the permits granted by one Regional Transport Authority and counter signed by another Regional Transport Authority either in the same State or different States, are really different permits rolled into one.

6. On a careful consideration of the submissions of the learned Counsel for the petitioner and in the light of the ratio of the Supreme Court in the decision

referred to supra, I am of the view that the decision of the Supreme Court does not have the effect of undermining the correctness of the decision of the Division Bench reported in *Gajalakshmi Ammal Manonmaniammal Bus Service Vs. The State Transport Appellate Tribunal, Madras and Another*, . For taking [disciplinary action for a misconduct involving the violation of the condition of permit, it matters very little as to where the alleged act of misconduct has been made and it is enough if the authority which ultimately initiated action and imposed a punishment is the Authority which granted the permit. The provisions of Sub-section (3) which stipulates that the provisions of the Chapter relating to grant, revocation and suspension of permit shall apply to the grant, revocation and suspension of counter-signature of permits would, if at all, enable the Transport Authority which granted the counter-signature also to take action in respect of the counter-signature accorded by such Authority, but that does not mean that the original Authority which granted the primary permit is deprived of its jurisdiction or authority to initiate action and impose any punishment as contemplated under law for commission of an offence or violation in respect of the permit, irrespective of the place of such commission of the offence or violation. The necessary power and authority is derived by a Transport Authority on account of that Authority being the Authority which granted the permit and permit holder being thus amenable to his jurisdiction and not with reference to the place where the actual breach of the condition of the permit Occurred which gave rise to such a cause of action for imposing the punishment. Consequently, I am of the view that the contention on behalf of the petitioner that the decision of the Division Bench of this Court is no longer good law, after the decision of the Supreme Court referred to supra, does not merit the acceptance of this Court and, therefore, the submission for the petitioner fails and shall stand rejected. No other issue has been passed before this Court at the time of hearing. The only ground raised having been rejected as above, the revisions fail and shall stand dismissed. No costs.