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**(1997) 06 AP CK 0057**

**In the Andhra Pradesh High Court**

**Case No : Writ Appeal No's. 369 and 602 of 1997**

G.V. Rama Rao

APPELLANT

Vs

APSRTC and Others

RESPONDENT

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**Date of Decision : 16-06-1997**

**Acts Referred:**

Andhra Pradesh Motor Vehicles Rules, 1989 — Rule 258(2)

**Citation : (1997) 5 ALT 527**

**Hon'ble Judges : P.S. Mishra, C.J.; P. Ramakrishnam Raju, J**

**Bench : Division Bench**

**Advocate : P. Rajagopalachary, for the Appellant; C.V. Ramulu and G.P. for Respondent Nos. 2 and 3, for the Respondent**

**Final Decision : Dismissed**

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## **Judgement**

P.S. Mishra, C.J.

Heard.

It is stated at the bar that the instant appeal is fully covered by the judgment of the Court in Writ Appeal No. 369 of 1997 dated 16-6-1997. The appeal, for the said reason, is accordingly disposed of in terms of the order in the said appeal.

1. Heard.

2. Undisputed facts are as follows:

Petitioner-appellant has moved for a stage carriage permit, the route being 2.3 K.Ms. within the municipal limits and 14.4. K.Ms, outside the municipal limits. The Regional Transport Authority did not take route 14.4. K.Ms. falling outside the municipal limits and took only 2.3 K.Ms. within the municipal limits as a town service and rejected the application. The State Transport Appellate Tribunal, however, has taken the same to be a town service and transgression in respect of initial route of the distance beyond municipal limits even if it is beyond 8 K.Ms. of the limit, is permissible, according to the petitioner-appellant, subject to the

permission of the Transport Commissioner. According to the learned Counsel for the petitioner-appellant, the Transport Commissioner, however, has reduced the distance of 14.4 K.Ms. to around 12 K.Ms only outside the municipal limits and the distance of 2.3 K.Ms. in the town limits is left untouched. Learned single Judge has taken notice of the specific rule i.e., Rule 258(2) of the A.P. Motor Vehicles Rules, 1989 and the scheme which permits: (1) the holders of stage carriage permits in respect of town service routes and holders of stage carriage permits in respect of such fair weather routes whose line of travel is completely in the non-notified area and (2) the holders of stage carriage permits in respect of route or routes which overlap not more than 8 K.Ms. on the notified route and held that the entire distance of 14.4 K.Ms. (Commissioner, it is said, has reduced to 12 K.Ms) is nationalised and the town service is limited to 2.5 K.Ms. and thus, grant of permit to the petitioner-appellant in the garb of town service shall be almost sanctioning a permit on a mofussil route, which has already been nationalised.

3. Various schemes have come before this Court and on the facts and in the circumstances of each case, this Court has taken one or the other view whether a permit is within the prescriptions of the afore-mentioned rules and strictly in accordance with the scheme and however, in one of its judgment in W.A.Nos.306, 307, 308 and 309 of 1997 dated 4-4-1997 has taken notice of a route of 25 K.Ms of which 2.5 K.Ms was within the municipal limits and the remaining 22.5 K.Ms outside of the municipal limits and observed as follows:

"Merely because the approved scheme exempts holders of stage carriage permits in respect of town service routes under the guise of calling it a town service route, a private operator cannot obtain a permit to ply on the route contrary to the terms of the approved scheme. It is not in dispute that the route is 25 K.Ms and allegedly called town service route although 2.5 K.Ms distance only is within the municipal limits and almost the entire route is nationalised as a mofussil route".

The above, in our view, applies to the facts of the instant case in all force. Rule 258(2) aforementioned reads as follows:

"(2) The Regional Transport Authority shall, subject to the following restrictions, determine which are town service routes:-

(i) at least one terminus of every town service shall lie within the limits of municipality or any built up place notified in the Andhra Pradesh Gazette as "town" for this purpose by the Regional Transport Authority concerned, with the prior concurrence of the State Transport Authority;

(ii) No route of town service shall extend more than 8 kilometres beyond the limits of the Municipality or town from which it starts, provided that this restriction shall not apply to any town service routes, which were in existence on the date of coming of these rules into force or in respect of those routes for which specific permission of the Transport Commissioner is obtained;

The Regional Transport Authority is empowered to determine which are town service routes. Atleast one terminus of every town services must always be within the limits of a Municipality or any built up place notified in the A.P. Gazette as "town" for the purpose by the Regional Transport Authority concerned with the prior concurrence of the State Transport Authority. The town service, however, cannot extend beyond 8 K.Ms. beyond the limits of the municipality or town from which it starts except in case of such town service routes which were in existence on the date of coming of the rules into force or in respect of those routes for which a specific permission of the Transport Commissioner is obtained and thus, for existing service as well as for any new service, permission to go beyond 8 K.Ms can be granted, but in terms of the rule afore-mentioned, it has to be essentially a town service as determined by the Regional Transport Authority. Regional Transport Authority has not determined the instant route as a town service route. In our view, it has rightly not accepted the instant stage carriage as a town service. Expression "town service" connotes catering to the needs of the residents of the town on routes which fall within the municipal limits. The idea of, however, recognising the extended limit of a town service by the estimated 8 K.Ms is reasonable for urban agglomeration, which is a well known phenomenon, for towns and cities are growing beyond the limits of the self-Governments like Municipal Corporations or Boards. In some cases, keeping in view the needs of such urban population of people who are living beyond the municipal limits and even beyond 8 K.Ms. provided they do serve the city or the town, the Transport Commissioner is empowered to permit a town service to go beyond even 8 K.Ms. Can a route, however, determine for a distance of 2.5 K.Ms. within the municipal limits and rest of the route admittedly forming part of the overlapping route, be called a town service? Observations in the judgment of this Court in W.A.Nos.306,307,308 and 309 of 1997 are significant enough to recognise the fact that no one in the guise of a town service is expected to use a mofussil route for its service and although primarily it is a service on the mofussil route, get advantage of a town service. It is one thing to say that after catering to the needs of the town residents on the expanding routes going beyond the municipal limits, the service allowed is to go beyond even 8 K.Ms of the municipal limits and another to say that the service although on the mofussil route for all the distance by just touching a point in the city or town would be a town service. The instant case, in our view, has rightly been decided by the learned single Judge and since we take the view that in the guise of a town service , a mofussil route is sought to be served by the instant grant of permit, which is violative of the scheme read with Rule 258(2) of the Rules aforementioned, we find no merit in the appeal. The appeal is dismissed.