
(1962) 01 AHC CK 0018
In the Allahabad High Court
Case No : Special Appeal No. 68 of 1960

Ishwar Dayal

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 16-01-1962

Acts Referred:

Motor Vehicles Act, 1939 — Section 48, 48(3)

Citation : AIR 1962 All 412

Hon'ble Judges : M.C. Desai, C.J.; S.D. Singh, J

Bench : Division Bench

Advocate : A.J. Fanthome, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

M.C. Desai, C.J.—This is a special appeal by a permit-holder against an order of Tandon, J. rejecting his petition for certiorari to quash an order of the State Transport Authority reclassifying a certain route as "A" class route. There was previously existing a route from Bulandshahr to Naraura which was a "B" class route. Later an extension was opened upto Ramghat and the appellant, who was a permit-holder on the Bulandshahr-Naraura route, applied to the Regional Transport Authority for including the extension in his permit. The application was allowed and the extension also was classed as "B" class route.

When the order of the Regional Transport Authority went before the State Transport Authority for confirmation, the latter classified the whole route as "A" class route on the ground that its condition had improved very considerably. No notice was given to the appellant or any other permit-holder of the route before this classification by the State Transport Authority. The appellant challenged this order of the State Transport Authority before Tandon, J., on the ground that it had no jurisdiction to place the route in a higher class and that he was entitled to be heard before it could be done. The learned Judge repelled both the contentions and dismissed the petition.

2. It was not contended before us that the State Transport Authority had no jurisdiction to reclassify the route; it had the jurisdiction vide the U. P. Motor Vehicles Taxation Rules 4, 5 and 6.

3. AS regards the other contention we do not know of any law under which a permit-holder must be heard before a route for which he holds a permit is placed in a higher class, it is true that the effect of placing a route in a higher class is that the permit-holder has to pay a higher tax and that the fares paid by passengers to him are less but these facts by themselves would not make it obligatory upon an authority to give notice to the permit-holder and hear him before placing the route in a higher class. It cannot be said that the permit-holder is deprived of his property by this act.

When we questioned Sri Fanthome under what provision the appellant was bound to be heard by the State Transport Authority before it placed the route in a higher class, he referred to Section 48 (3) (xxi) of the Motor Vehicles Act, What is stated in this provision is that a Regional Transport Authority may attach to a permit a condition that the conditions of the permit shall not be altered unless a month's notice is given. This provision only empowers a Regional Transport Authority to insert this condition, in a permit; it does not follow that such a condition is attached to every permit. The appellant would be entitled to a month's notice only if this condition was attached to his permit. But he has neither produced this permit before us nor stated in his petition that such a condition has been attached to his permit.

Further classification of a route is not a condition of the permit; a permit is granted under the Motor Vehicles Act whereas the classification of routes is done under the U. P. Motor Vehicles Taxation Act and Rules. Therefore, even if condition No. (xxi) of Section 48 (3) of the Moor Vehicles Act had been attached to the permit granted to the appellant he would not have been entitled to be heard by the State Transport Authority before it changed the classification of the route. We may also add that the classification was changed by the State Transport Authority and it is the Regional Transport Authority which is to attach a condition u/s 48 to a permit. We do not at all agree that any principle of natural justice was violated by the State Transport Authority when it changed the classification without hearing the appellant or any other permit-holder.

The rules regarding classification of routes do not at all require that any permit-holder should the heard before the classification is determined. Rule 6 of the Rules made under the U. P. Motor Vehicles Taxation Act lays down certain matters to be considered by the transport authorities before classifying routes but there is no provision laying down the procedure to be followed by them and there is no rule which requires them to give a notice to all permit-holders before determining the classification or changing the classification to a higher class. The appellant was not entitled to any writ when the State Transport Authority did not infringe any law or any principle of natural justice.

4. We, therefore, dismiss this appeal with costs.