
(2000) 03 KL CK 0041
In the High Court Of Kerala
Case No : O.P. No. 7883 of 2000-L

Jose Varkey

APPELLANT

Vs

State Transport Authority, Trivandrum and Another

RESPONDENT

Date of Decision : 30-03-2000

Acts Referred:

Motor Vehicles Act, 1988 — Section 88

Citation : AIR 2000 Ker 285

Hon'ble Judges : S. Sankarasubban, J

Bench : Single Bench

Advocate : G. Hariharan, for the Appellant; Govt. Pleader and N. Reghu Raj, for the Respondent

Judgement

S. Sankarasubban, J.—Petitioner is a stage carriage operator. He has got two buses having registration Nos. KL-6-4201 and KCF-9093. According to the petitioner, the buses having registration Nos. KL-8D-2349 and KL-8C 7362 are having permits to ply on the route Pala-Mangalore, which is an inter-State route. Since these buses had stopped operation of services temporarily, petitioner applied for substitute permits for these two buses. The application was presented on 25-11-1999. It was granted on 22-12-1999. Copy of the order of the State Transport Authority is produced as Ext. P1. The order directs the petitioner to get counter-signature of the State Transport Authority, Karnataka. Petitioner is aggrieved by this condition.

2. Permits granted were for four months or till the earlier grantee starts operation, whichever is earlier. Petitioner filed appeal before the State Transport Appellate Tribunal, Ernakulam. The State Transport Appellate Tribunal has not disposed of the appeal and hence, the petitioner has approached this Court.

3. Learned counsel for the petitioner points out that so far as this case is concerned, need for the service on the route Pala-Mangalore was approved by the State Transport Authority, Kerala and the State Transport Authority, Karnataka. The permits issued by the State Transport Authority, Kerala have

been counter-signed by the State Transport Authority, Karnataka with regard to the service of the buses, KL-8D-2349 and KL-8C 7362.

4. Petitioner had applied for temporary substitute permits. Learned counsel for the petitioner submitted that it is not necessary to obtain counter signature so far as temporary permit is concerned, because substitute permit is only a permit allowing another bus to operate in the place of a bus for which the permit is issued. If the condition of counter signature is to be complied with, then purpose of granting permits fails.

5. Learned counsel for the petitioner also brought to my notice Rule 170 of the Kerala Motor Vehicles Rules. It says that a temporary permit granted by a Regional Transport Authority shall be valid in any other region or regions in this State without counter-signature by the Regional Transport Authority of the other region or regions in the following cases : (a) a temporary permit granted under Clause (a) or (c) of Section 87 of the Act for a period not exceeding 20 days; (b) a temporary permit under Clause (c) of Section 87 of the Act for a period exceeding 20 days and under Clause (b) of Section 87 of the Act granted to a contract carriage; (c) a temporary permit under Clause (c) of Section 87 of the Act for a period exceeding 20 days and under Clause (b) of Section 87 of the Act granted to a stage carriage, provided that prior concurrence of the Regional Transport Authority shall have been obtained for the issue of the temporary permit. There is a proviso to Rule 170(c) of the Rules, which says that the concurrence shall not be necessary for the grant of a temporary permit to perform substitute service in place of a vehicle already covered by a valid permit for operation on any inter-district route. No doubt, neither the Act nor the Kerala Rules speak anything about the permits issued in the State. Of course, Section 88 of the Motor Vehicles Act says that a permit issued in a State will not be valid in another State unless it is counter-signed by the other State.

6. I am of the view that the authorities have to think over this matter and frame proper Rules or the Central Government should make Rules regarding this aspect. But so far as the present case is concerned, I am of the view that the petitioner should not be allowed to wait till the counter-signature is obtained from the State Transport Authority, Karnataka, because probably it will take another one month to get the counter signature from the State Transport Authority. But by that time, the need for which the temporary permit is issued may be over. Hence, relying on the practice adopted for granting substitute temporary permit for inter-district route, I am of the view that the condition prescribed in Ext. P1 is not warranted by law. Petitioner is operating his vehicles in the place of vehicle Nos. KL-8D-2349 and KL-8C 7362. Petitioner has to pay tax for both States. The State Transport Authority, Thiruvananthapuram may inform the State Transport Authority, Karnataka about the judgment of this Court that counter signature is not necessary for issuing temporary substitute permits. The conditions given in Exts. P1, P2 and P2(a) will be modified that no counter-signature from the State Transport Authority, Karnataka is necessary. Petitioner

is allowed to operate his vehicles on the route in question without counter-signature from the State Transport Authority, Karnataka on the basis of the substitute permits.

Original Petition is disposed of as above.