

(2010) 02 KAR CK 0114

In the Karnataka High Court

Case No : Writ Petition No. 60423 of 2010

K. Ganapathi Kamath, Sumayya Sheikh and Shashi S. Rai

APPELLANT

Vs

The Regional Transport Authority and North West Karnataka
Road Transport Corporation

RESPONDENT

Date of Decision : 02-02-2010

Acts Referred:

Citation : (2010) 02 KAR CK 0114

Hon'ble Judges : H.G. Ramesh, J

Bench : Single Bench

Advocate : S Vijayashankar for Santosh B. Mane, in W.P. No. 60423/2010 and S. Vijayashankar for M.E. Nagesh, in W.P. No. 60424/2010, for the Appellant; S. Prakash Shetty, for Ravi V. Hosamani, for R-2, for the Respondent

Final Decision : Dismissed

Judgement

H.G. Ramesh, J.—In these writ petitions, the challenge is to the common judgment dated 29-1-2010 (Annexure-H) passed by the Karnataka State Transport Appellate Tribunal, Bangalore in appeal Nos. 599 to 604/2009 and other connected appeals.

2. I have heard Sri S Vijayashankar, learned Senior Counsel appearing for the Petitioners and Sri S Prakash Shetty, learned Counsel appearing for Respondent No. 2 and perused the impugned judgment at Annexure-H.

3. The Petitioners were private operators having obtained permits pursuant to the modification effected to the Hubli-Dharwad scheme by notification dated 31-12-2003 which is at Annexure-A. By the said modification, Hubli-Dharwad Scheme of the year 1959 which was to the total exclusion of private operators was modified permitting private operators to operate their services as city services, as per the conditions of the permit granted to them, upto a radius of 20 kms from the Revenue District head quarters.

4. The Petitioners who were granted city stage carriage permits by the RTA,

Dharwad pursuant to the modification effected to the Hubli-Dharwad scheme in the year 2003, applied for renewal of their permits which was rejected by the RTA and confirmed by the KSTAT as per the judgment impugned herein. Their applications were rejected on the ground that the subsequent notification dated 1-6-2006 (Annexure-D) withdrew the modification effected in the year 2003 which had allowed private operators to operate city services.

5. It is relevant to refer to the relevant portion of the notification dated 1-6-2006 which withdrew the earlier modification; it reads as follows:

Notwithstanding anything contained in the above schemes, the private operators are allowed to operate their services as city services as per the conditions of the permit granted by the respective Transport Authorities upto a radius of 20 kilo meters from the City of the Revenue District Headquarters excluding Bangalore City" published in Notification No. HTD 134 STMA 2003, dated 31-12-2003 in Karnataka Gazette Extraordinary Part-IVA No. 1732 dated 31-12-2003 is hereby withdrawn. However, the permits and the number of trips already granted and issued as per the said notification are saved. (underlining supplied)

6. Sri S Vijayashankar, learned senior counsel in support of the writ petitions submitted that as per the withdrawal notification (Annexure-D) referred to above, it not only saved the permits that were already granted but the said permit holders would also get the right to apply for renewal of their permits after expiry of the permit period. In support of his contention, he referred to the provisions of the General Clauses Act, 1897, the Motor Vehicles Act, 1988 and also the judgment of the Hon"ble Supreme Court in Gajraj Singh etc. Vs. The State Transport Appellate Tribunal and others etc., .

7. Therefore, the only question that falls for determination is as to whether the "saving" in the notification at Annexure-D withdrawing the earlier modification would confer any right on the Petitioners to apply for renewal of their permits which were granted as per the earlier modification effected in the year 2003 to the Hubli-Dharwad scheme as per the notification at Annexure-A?.

8. As rightly pointed out by Sri S Vijayashankar, learned senior counsel, the relevant sentence in the withdrawal notification at Annexure-D that requires interpretation reads as follows:

.... However, the permits and the number of trips already granted and issued as per the said notification are saved.

9. A plain reading of the above would show that only the permits and the number of trips already granted and issued as per the earlier notification at Annexure-A were saved and the "saving", in my opinion, does not extend to conferring right on the permit holders to apply for renewal of their saved permits. Accordingly, the Karnataka State Transport Appellate Tribunal was right in holding that the withdrawal notification dated 1-6-2006 at Annexure-D only saved the permits and trips already granted and did not confer any right on the Petitioners to apply

for renewal of permits after their expiry. Reliance placed by the learned senior counsel on the judgment of the Supreme Court, the General Clauses Act, 1897 and the Motor Vehicles Act, 1988 are not relevant to interpret the "saving" referred to in the withdrawal notification at Annexure-D. The writ petitions are devoid of merit and are accordingly dismissed.

Petitions dismissed.