

(1964) 07 AP CK 0019

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 755 and 1229 of 1964

Kannayya Naidu

APPELLANT

Vs

The Regional Transport Authority, Chittoor and Another

RESPONDENT

Date of Decision : 28-07-1964

Acts Referred:

Motor Vehicles Act, 1939 — Section 42, 46, 48, 48(2), 48(3)

Citation : AIR 1965 AP 229

Hon'ble Judges : Gopalakrishnan Nair, J

Bench : Single Bench

Advocate : R. Venugopalareddy and P. Babulureddy, for the Appellant; O.A. Reddy, for Govt. Pleader, K. Srinivasamurthy and S. Ramachandra Reddy, for the Respondent

Judgement

1. These writ petitions raise a question whether the variation of the route in respect of which a stage carriage permit has been granted is within the jurisdiction of the Regional Transport Authority acting under the provisions of Sec. 57 of the Motor Vehicles Act (hereinafter referred to as the Act). The contention put forward on behalf of the petitioners is that specification of the route for which a stage carriage permit shall be valid is not a condition of the permit and that therefore a variation of the route by the inclusion of a new route in the permit is not an alteration of the condition of the permit and that consequently the Regional Transport Authority has no jurisdiction under Sec. 57 of the Act to entertain or proceed with the applications for variation of routes covered by stage carriage permits.

(2) The second respondent in W. P. 755/ 64 holds a stage carriage permit in respect of the route Nagalapuram to Pallipuram. He applied to the Regional Transport Authority, Chittoor for extension of the existing route by the inclusion of a new route, Pichatur to Vengalathur. That was opposed by the petitioner in W. P. 755/ 64 who was an utter outsider in the sense that he did not hold any stage carriage permit in the sector. The application for extension of the route was

however duly published by R. T. A. under Sec. 57(3) of the Act and it was set down for being heard on merits on 15-5-64. Meanwhile, the petitioner has moved this Court for a writ of Prohibition to prohibit the Regional Transport Authority, Chittoor from proceeding with the matter on the ground that he has no jurisdiction to grant an extension of a route covered by a subsisting stage carriage permit.

(3) The second respondent in W. P. 1229/ 64 piles his stage carriage under a permit on the route, Nallamada-Mohammadabad. He applied on the Regional Transport Authority, Anantapur for changing this route into Kondakamarla-Chinganipalle. This application involved an extension of the route by a few miles at either end. The petitioner in W. P. No. 1229/ 64, who is a rival bus operator in the same sector, filed his objections before the Regional Transport Authority, Anantapur in pursuance of the publication of the second respondent's application under Sec. 57(3) of the Act. But before the Regional Transport Authority could take up the second respondent's application for consideration on merits, he moved this Court for a writ of Prohibition to prevent the Regional Transport Authority, Anantapur from proceeding with the matter on the ground that it was devoid of jurisdiction to do so.

(4) The main contention of the petitioner is that specification of the route for which the stage carriage permit shall be valid is not a condition of the permit and that it could not therefore be varied by the Regional Transport Authority. The respondents, on the other hand, contend that specification of the route is an essential condition of a stage carriage permit and that a variation or extension of the route is therefore an alteration of the condition of the permit properly falling within the jurisdiction of the Regional Transport Authority under the provisions of the Act, particularly Sec. 57. Which of these two rival contentions has to prevail now falls for determination.

The main argument on behalf of the petitioner is that old Sec. 48(d)(ii-a) expressly provided that "the stage carriage or stage carriage shall be used only on specified routes or in a specified area". This provision according to the petitioners, made specification of route a condition of stage carriage permits. But Sec. 48 of the Act was amended by Central Act 100 of 1956 and old Section 48(d)(ii-a) was enacted in a modified form as new Sec. 48(3). The permissible conditions which could be attached to a stage carriage permit which were previously catalogued under Sec. 48(d) were enumerated under new Sec. 48(3). The argument of the petitioners is that as new Sec. 48(3) does not contain a provision similar to old Sec. 48(d)(ii-a), it must necessarily be inferred that a route, under the amended Act, is not a condition of a stage carriage permit . Reinforcing this line of reasoning, the learned counsel for the petitioners point out that a new provision viz. , Sec. 51(2)(i) was deliberately inserted in respect of contract carriage permits by Central Act 100 of 1956 whereas a similar provision which previously existed as Section 48(d)(ii-a) in respect of stage carriage permits was put out of new Sec. 48(3) which relates to conditions of

stage carriage permits.

It is further stated that no change in this regard was made in respect of public carriers' permits. Both the old Sec. 56 as well as the amended Sec. 56 contain a provision that a goods vehicle shall be used only in an area or on a route specified in the public carrier's permit - vide new Sec. 56(2)(i). In view of the aforesaid changes made by amending Act 100 of 1956, the learned counsel for the petitioners urge that a route has ceased to be a condition of a stage carriage permit. In support of this proposition, they have called in aid a Full Bench decision of the Madras High Court in *S.V. Natesa Mudaliar, Proprietor, S.L.N.S. Transports Vs. Sri Dhanapal Bus Service Private Ltd. and Others*, . Of the three learned Judges who framed the Full Bench, two supported the view now put forward on behalf of the petitioners. But the other learned Judge dissented from the majority view which was based mainly on the non-inclusion in new Sec. 48(3) of a provision similar to old Sec. 48(d)(ii-a).

What appears to me somewhat significant is that the majority view has not indicated any reason as to why the Legislature in enacting Act 100 of 1956 should have changed the law relating to stage carriage permits in this regard. It could not reasonably be that they considered that a route should be a condition of only a public carrier's permit and a contract carriage permit and not of a stage carriage permit . One cannot assume that the Legislature without any reason whatever purported to alter the law in an important respect. The learned counsel for the petitioners have not been able to suggest even a plausible reason for the alleged departure from the previous state of statute law. The contention that a law was intended to be changed by Act 100 of 1956 therefore requires more than ordinary scrutiny. The learned counsel for the respondents have drawn my attention to Section 57(8) of the Motor Vehicles Act. The relevant portion of this provision reads : -

"An application to vary the conditions of any permit.

. by the inclusion of a new route or a new area."

This would show that alteration of a route specified in a stage carriage permit is regarded by the Legislature as a variation of a condition of that permit. It is not the case of the learned counsel for the petitioners that the words "any permit" occurring in the opening portion of Sec. 57(8) will not comprehend stage carriage permits also. But the argument advanced is that Sec. 57(8) must be so construed as to make it consistent with the assumption that a route is not a condition of a stage carriage permit. This will be to ignore the clear meaning of the plain words of Sec. 57(8) . I do not see why such a crippled construction should be or how it properly can be placed on the section. The construction contended for would amount to a rather unusual attempt to force the plain terms of Sec. 57(8) to yield to a pre-conceived conclusion.

(5) It is then argued that Sec. 57(8) is procedural in character and should

therefore be ignored in ascertaining whether a route specified in a stage carriage permit is a condition of the permit. This argument does not appeal to me. Section 57(8) no doubt prescribes the procedure to be applied in dealing with applications for variation of conditions of permits. But it also points out clearly that an application for inclusion of a new route in an existing permit, whether it be a stage carriage permit or not, is an application to vary the condition of that permit. This part of Sec. 57(8) is not procedural but substantive and cannot be ignored or escaped by wrongly labelling it as procedural. The section first declares what would be an application to vary the conditions of a permit and then proceeds to say how it should be dealt with.

(6) I shall now consider the contention of the petitioners based on amended Sec. 48(3). This contention sets very great store by the non-inclusion in Sec. 48(3) of a provision similar to Sec. 48(2). This circumstance does not in my opinion justify the conclusion that a route specified in a stage carriage permit is not a condition of that permit. I do not think there is any particular sanctity in including a particular condition in Sec. 48(3) or even in Sec. 59. Certain conditions which can be attached to a stage carriage permit are mentioned in Sec. 48(3). Certain other conditions which have compulsorily to be included in the permits are referred to in Sec. 48(3) and 59 do not exhaust all the possible conditions of a stage carriage permit. Nor do these sections say that only the conditions mentioned in them can be regarded as conditions of a stage carriage permit. In other words, these sections do not prohibit other conditions being included in a stage carriage permit and those conditions of the permit. Now, turning to Sec. 48(2) one cannot doubt that it prescribes the fundamental condition that every stage carriage permit shall be pressed to be valid only for a specified route or routes. The section requires this condition to be written into every stage carriage permit. If a stage carriage contravenes this condition, it will fail within the clutches of Sec. 60(1)(a). If the scope and effect of Sec. 48(2) are correctly understood, the first part of Sec. 57(8), already adverted to, becomes perfectly intelligible, and full effect can be given to the plain grammatical meaning of every word of it. And Secs. 42, 46, 48, 57(8), 59 and 60(1)(a) will all accord together.

(7) The view I have expressed above is based largely on the decision of a Division Bench of this Court in *Narayana Reddy v. Secy. R. T. a. , Cuddapah* 1960 2 AWR 91 . The Division Bench whose judgment was delivered by the learned Chief Justice, repelled contentions identical with those now put forward on behalf of the petitioners, and approved the view of *Satyanarayana Raju, J.* of this Court. *Ramamurthy, J.* of the Madras High Court in dissenting judgment in *S.V. Natesa Mudaliar, Proprietor, S.L.N.S. Transports Vs. Sri Dhanapal Bus Service Private Ltd. and Others*, whole heartedly endorsed the view adopted by the Division Bench of this Court in 1960-2 Andh WR 91.

No doubt the majority of the Madras Full Bench in *S.V. Natesa Mudaliar, Proprietor, S.L.N.S. Transports Vs. Sri Dhanapal Bus Service Private Ltd. and*

Others, differed from 1960 2 AWR 91 But I am unable to agree that the view taken by this court requires reconsideration. I say this apart from the consideration of my being bound by a Division Bench ruling of this court. Following the Division Bench in 1960 2 AWR 91 I negative the contentions raised on behalf of the petitioners and hold that the Regional Transport Authority has jurisdiction and authority to entertain and enquire into an application for variation or extension of a route specified in a stage carriage permit and to dispose of it according to Sec. 57(8) of the Act.

(8) In the result, these writ petition are dismissed ; but without any order as to costs.

9. Petition dismissed.