

(1979) 06 KAR CK 0003
In the Karnataka High Court
Case No : W.A. No's. 603 to 605 of 1978

Karnataka State Road Transport Corporation	APPELLANT
Vs	
Karnataka State Transport Appellate Tribunal	RESPONDENT

Date of Decision : 15-06-1979

Acts Referred:

Motor Vehicles Act, 1939 — Section 64, 64 (1), 64 (1) (f)

Citation : AIR 1981 Kar 140

Hon'ble Judges : Srinivasa Iyengar, J; Rama Jois, J; Jagannatha Shetty, J

Bench : Full Bench

Judgement

Rama Jois, J.—In these three connected writ appeals, the following question of law has been referred for opinion of the Full Bench:

"Whether under S. 64 (1) (f) of the Motor Vehicles Act, a local authority or Police Authority or an Association which or a person providing transport facilities who has opposed the grant of renewal of a permit is entitled to maintain an appeal to the prescribed authority challenging the grant of renewal of permit?"

2. The brief facts of these cases. Which have given raise to the question are these:

The third respondent in each of these appeals is a stage carriage operator. When the duration of the period of their permit was about to expire they filed application for renewal of their respective permits for a further period of five years, the appellant the Karnataka State Road Transport Corporation objected to that renewal. The concerned Regional Transport Authority (hereinafter referred to as RTA), however, resolved to renew the permits. Aggrieved by the renewal, the appellant preferred appeals to the State Transport Appellate Tribunal u/s 64 of the Motor Vehicles Act (hereinafter referred to as the Act). The Appellate Tribunal dismissed the appeals holding that no appeal lies u/s 64 of the Act against the order renewing the permit. The legality of the decision was questioned by the appellant in the write petitions. The learned Single Judge dismissed the Petitions

upholding, the, view taken by the Appellate Tribunal.

The appellant preferred these three write appeals against the order made by the Learned Single Judge. When the appeal came up for hearing before the Division Bench at the appellant relied on the decision of the Supreme court in Ram Gopal Vs. Anant Prasad and Another, in support of the contention that the appeals before the Appellate Tribunal were maintainable u/s 64 (1) (f) of the Act. The respondents relied on a Division Bench decision of this court consisting of the Chief Justice and Justice E.S.Venkataramaiah (as he then was) in w, as 139 and 140 of -1979 decided on 22-1-1979 in support of the contrary view. The Division Bench, which heard the above appeals, felt that the view taken in Writ Appeals Nos. 139 and 140 of 1979 appeared to be contrary to the observations of the Supreme Court in Ram Gopal's case and therefore, made the reference to a Full Bench for its opinion.

3. Before we refer to the ratio of the aforesaid decision, it will be useful to set out Section 64 of the Act. The section so far as it is relevant provides:

"64 (1) Any person -

(a) aggrieved by the refusal of the State or a Regional Transport Authority to grant permit * * * * *

(e) aggrieved by the refusal of renewal of a permit.

(f) being a local authority or police authority or an association which or a person providing transport facilities who having opposed the grant of a permit is aggrieved by the grant thereof or by any condition attached thereto or

xx xx xx xx"

4. Sri P. R. Ramesh, learned counsel for the appellant contended that the word "grant" used in Section 64 (1) (f) of the Act includes "renewal" also, particularly in view of the Section 58 f2) of the Act which provides that a permit may be renewed on an application made and disposed of as if it were an application for a permit. In support of his submission, he relied on the decision of the Supreme Court, in Ram Gopal's case and the decision of the Orissa High Court in Harichand Sharma Vs. Regional Transport Authority and Others, .

5. Sri M. R. Venkatanarasimhachar, learned counsel for the contesting respondents, strenuously contended that appeal provided u/s 64 (1) of the Act was only against grant of the permit provided the categories of persons named in that clause had opposed the grant of the permit, but not against renewal even if they had opposed such renewal. He argued that sub-section (2) of Section 58 of the Act which provides for the disposal of an application for renewal relates only to the procedure for disposal and does not have the effect of equating grant of permit to renewal, for purpose of Section 64 of the Act, He Pointed out that if the word "grant" was meant to include "renewal" also clause (c) of Section 64 specifically, Providing for an appeal against refusal to renew a permit would not

have been incorporated as clause (a) which provides for an appeal against the refusal to grant would include an appeal against refusal to renewal also. He relied upon the decision of this Court in Mysore State Road Transport Corporation v. Nanjundappa (AIR 1972 Mys 47) and in particular the following observation:

"Whenever in a statute we find certain expressions used one by the side of the other in order to convey different meanings, it should be held that the legislative authority intended that any of them would not include the other." Relying on another decision of the Supreme Court in Kundur Rudrappa Vs. The Mysore Revenue Appellate Tribunal and Others, he submitted that appeal is a right to be conferred by law and which the legislature has not conferred a right of appeal against renewal, no such right can be inferred. He referred to the scheme of the Act and submitted that, in respect of objectors other than those referred to in S. 64 of the Act who are aggrieved by the grant or renewal and in respect of the objectors referred to in Section 64 (1) (f) of the Act who are aggrieved by the renewal, the only remedy provided under the Act is by way of revision to the Appellate Tribunal u/s 64A of the Act,

6. We see considerable force in the contention, urged by the learned counsel for the respondent in view of the wordings of Section 64 and the scheme of the Act, but we do not think that the question viz. as to whether Section 64 (1) (f) of the Act conferred a person who had Opposed the grant, also includes the right to appeal against renewal: is res integra. The relevant observations of the Supreme Court in Ram Gopal Vs. Anant Prasad and Another, read as follows:

" The different clauses in the sections deal with different situations each independent of others. Clause (f) deals with a case, where an objection had been filed against the fresh grant or the renewal of the permit but the permit has none-the-less been granted or renewed. The clause gives the objector a right of appeal against the result of the rejection of his objection if he is one of the persons mentioned in it."

After considering the observations, the Orissa High Court in Harichand Sharma Vs. Regional Transport Authority and Others, held as follows:

"We must hold that the law laid down by their Lordships of the Supreme Court confer right of appeal on the petitioner. The Tribunal went wrong in its conclusion that an appeal at the instance of the petitioner did not lie and therefore, it was in error in holding that the appeal at his instance was not tenable. That conclusion of the Tribunal is liable to be vacated "

7. From the judgment of the Orissa High Court it may be seen that after having noticed the decision of the Central Transport Services Jabalpur v. State Transport Authority (ILR (1961) Bom 174) in which Mudholkar J. (as he then was) has held that no appeal against renewal of a permit lies u/s 64 (1) W of the Act (ii) the decision of this High Court in M. S. R. T. C. v. Nanjundappa and (iii) the decision of the Allahabad High Court in Bhan Singh Vs. Regional Transport Authority and Others, which support the contention similar to the one advanced

for the contesting respondents in this case (it) held that those decisions are contrary to the decision of the Supreme Court in Ram Gopal Vs. Anant Prasad and Another, . We are of the opinion that in view of the law laid down by the Supreme Court recognising the right of appeal u/s 64 (1) (f) of the Act to the persons named therein against the renewal if they had opposed the renewal it was not open for the Tribunal or the Court to take a contrary view.

The Appellate Tribunal distinguished the decision of the Supreme Court in Ram Gopal's case on the ground that it turned on the facts of the case as the respondent therein was an independent applicant for a permit for the same, route and, therefore, it was held by the Supreme Court that he had a right of appeal because renewal of the permit in favour of the appellant therein amounted to rejection of the application of the respondent therein and that is not the position in this case as the appellant an existing operator was only an objector and not an applicant. Further the Appellate Tribunal in holding that Section 64 (1) (f) of the Act did not confer a right of appeal, relied on the principle laid down by the Supreme Court in Kundur Rudrappa Vs. The Mysore Revenue Appellate Tribunal and Others, to the effect that appeal being a creature, of the statute cannot be permitted unless specifically provided, for by the- statute.

But it should be pointed out that the relevant portion⁴ of" the Judgment of "the Supreme Court in Ram "Gopal"s case 1 in which the Supreme "Court hats" held that appeal against renewal also lies " tinder Section 64 (1) M of the Act, was over looked by the Appellate Tribunal as also by the single Judge who dismissed the three writ petitions and it was not brought to the notice of the Division Bench who dismissed Writ Appeals Nos. 139 and 140 of 1979 holding that an appeal against renewal is not contemplated by Section 64 (1) M of the Act. The decision in Writ Appeals Nos. 139 and 140 of 1979 cannot be regarded as good law in view of the decision of the Supreme Court in Ram Gopal"s Case.

8. For the reasons stated above, our answer to the question of law referred for our opinion is as follows:

Under Section 64 (1) (f) of the Motor Vehicles Act, a local authority or, police authority or an association which or a person providing transport facilities who has opposed the grant of renewal of a permit is entitled to maintain an appeal, to the prescribed authority challenging the grant, of renewal of permit.

9. Answered accordingly.