
(1992) 03 KL CK 0010
In the High Court Of Kerala
Case No : O. P. No. 3266 of 1992

M. Balan

APPELLANT

Vs

S. T. A. T. and Others

RESPONDENT

Date of Decision : 27-03-1992

Acts Referred:

Motor Vehicles Act, 1988 — Section 18(3), 72

Citation : (1992) 1 KLJ 703

Hon'ble Judges : K.T. Thomas, J

Bench : Single Bench

Advocate : M.K. Chandramohan Das, for the Appellant; Vijayan Nair, Govt. Pleader, for the Respondent

Judgement

K.T. Thomas, J.—The question for consideration in this original petition is simple: Whether Regional Transport Authority (for short "the Transport Authority") has power to fix places for a stage carriage to stop en route. Petitioner has a regular stage carriage permit to operate bus service on a long distance route (Kozhikode Palakkad.) A permit was granted u/s 72 of the Motor Vehicles Act, 1988 (for short "the new Act".) After conducting bus service for some time, he filed an application before the Transport Authority concerned for reification of the places to stop the bus on the route. He expressed the desire to conduct "a limited stop service". The Transport Authority rejected the application expressing the fear that allowing such application "will open the flood gates of applications and other applicants in those routes and it will not be possible to reject any application for such conversion in those routes and the entire traffic will become drastic and beyond control". Interest of the travelling public to alight from and board the bus at intermediate stops also weighed with the Transport Authority in rejecting the application. Petitioner challenged the order before the State Transport Appellate Tribunal (for short "the Tribunal"). By Ext.P3 judgment the Tribunal disagreed with Transport Authority and suggested further that steps should be limited to 30 to 35 in view of the length of the route. Secretary of the Transport Authority was given freedom to select the places where the bus shall stop "by

taking into consideration the travelling needs of the public along this route". However, the Tribunal put a rider that "if the permit has been granted under the new Act, the permit holder need not be allowed to convert his service from ordinary to any other nature, since he must have been given permit for a service as he opted, desired and wanted".

2. The Practical consequence of providing the said rider is to negative what petitioner pleaded for in the Tribunal and that which the Tribunal accepted substantially because petitioner's permit to operate stage carriage service on the route Kozhikode-Palakkad was issued under the provisions of the new Act. 3. Learned counsel for the petitioner contended, that drawing a distinction between permits granted under the new Act and the old, Act is totally unwarranted, so far as fixation of place of stops of the vehicle is concerned. The new Act, no doubt, - reflects a liberalized policy, and an applicant is likely to get a permit as "opted, desired and wanted by him". But that does not mean that a permit holder cannot seek for a change at a subsequent stage. Changes can come to the locations, convenience, and situation at different places on a route by lapse of time. Such changes may require changes in the places where the vehicle has to be stopped on the route. For that matter it is immaterial whether permit was granted under the old Act or under the new Act. The only question then is whether such places can be refixed by the Transport Authority.

4. Section. 18 (3) of the new Act refers to variation of conditions of any permit, but such variations are restricted to those matters enumerated in the sub-section. Power to fix stopping places cannot, therefore, be traced in Section 18 (3) . But under Rule 206 of the Kerala Motor Vehicles Rules, 1989 (for short "the Rules") the State or Transport Authority has power to fix stopping places for a stage carriage service. Such power can as well be exercised for refixing stopping places. One of the requirements of the Rule is that while fixing the stopping places, the Transport Authorities shall consult such other authority as it deems necessary. This again indicates that fixation of stopping places has to be done in the interest of the travelling public. It may be true that travelling public would be benefited if there are intermittent stopping places at short distances as passengers can alight from the vehicle, and board it wherever they choose. But it would inflict great strain and tediousness to those passengers who have to cover long distances if the bus stops too frequently. Long distance passengers, in such buses, would be compelled to suffer loss of much time in journey. In long distance services "limited stop service" is adopted, to lessen the strain, tediousness and waste of time to such passengers.

5. If "limited stop" facility can be provided for bus services covered by permits issued under the old Act, the same can be extended to services covered by permits issued under the new Act as well. What is sauce for the goose is sauce for the gander also. For the aforesaid reasons, I quash the rider provided by the Tribunal in Ext. P3 that limited stop benefit need not be granted to the bus service covered by the permits issued under the new Act.

Original Petition is disposed of accordingly. Issue photo copy on usual terms.