
(1964) 04 MAD CK 0025
In the Madras High Court
Case No : Writ Petition No. 8 of 1963

Mettupalayam Coonoor Service (P) Ltd.	APPELLANT
Vs	
The Nilgiri Motor Transport (1947) (P.) Ltd. and Others	RESPONDENT

Date of Decision : 24-04-1964

Acts Referred:

Central Motor Vehicles Rules, 1989 — Rule 268, 269, 269(1), 269(2)
Motor Vehicles Act, 1939 — Section 47(1), 48, 48(3), 57(3), 68

Citation : AIR 1965 Mad 91 : (1965) ILR (Mad) 669 : (1965) 1 MLJ 248

Hon'ble Judges : Veeraswami, J

Bench : Single Bench

Judgement

Veeraswami, J.—This is a petition to quash and order of the State Transport Appellate Tribunal confirming an order of the Secretary,

Regional Transport Authority, Nilgiris, by which he revised the timings for the first respondent's stage carriage MDN 4251 since replaced by

MDN 5000 on the route Ootacamund to Mettupalayam. This he did on an application by the first respondent which was notified under S. 57(3) of

the Motor Vehicles Act, 1939. The petitioner objected to revision of timings on the ground that there was no need therefore, particularly the

change for night halt from Ootacamund to Mettupalayam. The Secretary overruled this objection and found that a revision of timings for the first

respondent's bus would be in public interest. He was of the view that, having regard to the traffic, it was necessary to provide through trip from

Mettupalayam to Ootacamund between 6 and 7 am. In purported exercise of the powers delegated to him under Rule 134-A of the Motor

Vehicles Rules 1940 he settled a revised schedule of timings to take effect from 11-9-1961. The main change resulting from his revised schedule

was that the first respondent's bus, instead of halting at Ootacamund, halted at Meetupalayam and from there it started for Ootacamund at 6-15

a.m. Before the Tribunal, the petitioner questioned the need for revised timings and also the jurisdiction of the Secretary of the Regional Transport

authority to change the timings and night halt. The Tribunal held against the petitioner on both the grounds and dismissed his revision petition.

2. In this Court, Mr. Chengalvarayan for the petitioner did not challenge the propriety of the tribunal's finding that the change of timings was in

public interest, but confined his argument to the jurisdiction of the Secretary to make the order. Section 48(d) of the Motor Vehicles Act as it

stood then conferred upon the Regional Transport authority power to regulate timings of arrival or departure of stage carriages. This power he

could exercise after consideration of the matters set forth in sub-section (1) of S. 47. Rule 269 of the Motor Vehicles Rules provides that the

Transport authority may, from time to time, prescribe by a general order a schedule of timings for stage carriages on specified routes or by special

order a schedule of timings for each stage carriage. Rule 134-A enables the Regional Transport authority to delegate to the Secretary its power to

fix time table or approve it with or without modification or refuse to approve the time table in respect of a particular stage carriage or of a service

of stage carriages. Rule 269 has been substituted by a new rule promulgated by G. O. Ms. 3357 Home dated 27-11-1959. Sub-rule 1 of this rule

provides power for the Transport authority to fix or approve schedule of timings for a particular stage carriage. This power includes the power to

approve schedule of timings with such modification as the authority may deem necessary, Sub-rule 2 of this rule reads:

withstanding anything contained in sub-rule (1) the transport authority may, at any time, either on its own motion or on application made to it in

writing, if satisfied of the expediency, revise or modify any schedule of timings already fixed or approved for any particular stage carriage or any

service of stage carriages on any route or portion thereof, after giving an opportunity of being heard to the applicant, if any, and any person likely

to be or claiming to be affected by the revision or modification

It may be seen that this sub-rule provides for revision or modification by the Transport authority of any schedule of timings already fixed or

approved S. 48 also has been substituted by a new section, and what is relevant to this petition is S. 48(3) (iii) and (iv) which may be set out:

The Regional Transport Authority may grant the permit for one or more particular stage carriages, and may, subject to any rules that may be made

under this Act, attach to the permit any one or more of the following conditions, namely:

(iii) that copies of the time table of the service or of particular stage carriages approved by the Regional Transport Authority shall be exhibited on

the vehicles and at specified stands and halts on the route or within the area;

(iv) that the service shall be operated within such margins of deviation from the approved time table as the Regional Transport Authority may from

time to time specify.

The old provision relating to the timings, as I have already mentioned, was different. It stated that a Regional Transport Authority may regulate

timings of arrival or departure of stage carriages whether they belonged to a single or more owners. The effect of these provisions appears to be

this. Whereas the power of the Regional Transport Authority to regulate timings of arrival or departure of stage carriages was provided by S.

48(d) before its amendment, that provision is not found in the precise form in S. 48(3) as it now exists. Under the old provision the power of the

authority to regulate timings of arrival or departure of stage carriages was comprehensive which included also revision of timings, not merely

fixation or approval thereof in the first instance. Clause (iii) of sub-section (3) of S. 48 relates to a condition to be attached to a permit, namely,

that copies of the time table of the "service or of particular stage carriages approved by the Regional Transport Authority should be exhibited on

the vehicles and at specified stands and halts on the route or within the area. This provision assumes that the Regional Transport Authority has

power to approve time tables. Clause (iv) of sub-section (3) of S. 48 as it is now in operation also relates to the condition to be attached, namely,

that the service shall be operated within such margins of deviation from the approved time table as the Regional Transport Authority may from time

to time specify. Here again, this provision does not say which authority will have power to direct deviation from the approved time table. But Rule

269 as substituted by G. O. Ms, 3357 Home, dated 27-11-1959 in exercise of the

powers under S. 68, as already noticed, specifically confers power on the Regional Transport Authority both for fixing and approving a schedule of timings as well as revising or modifying schedule of timings already fixed or approved.

3. In the light of these provisions as modified or substituted, the submission of Mr. Chengalvarayan is that the delegation to the Secretary under

Rule 134-A(xy) is confined to fixation or approval of time table with or without modification and does not include power to revise or modify a

schedule of timings already fixed or approved. In my opinion, this contention is well founded. Rule 269 as it is in force today is in two parts, the

first sub-rule conferring power upon the Regional Transport Authority to fix and approve a schedule of timings, and the second sub-rule, power to

revise or modify a schedule of timings already fixed or approved. The implication of the two sub-rules, is that the power to fix and approve a

schedule of timings does not carry with it power to revise or modify a schedule of timings already fixed or approved. Power to regulate timings was

embodied in the body of the Act itself before S. 48(d) was amended, and no distinction was made therein between power to fix and approve a

schedule of timings on the one hand and power to revise or modify a schedule of timings already fixed or approved on the other. But now, the

power to regulate timings as embodied in Rule 269 as amended, has split the power into two, one to fix and approve, and the other to revise or

modify. In the light of this distinction made by Rule 269 between the two kinds of power, it is clear that under Rule 134-A what is delegated by the

authority to the Secretary is only power to fix or approve time table with or without modification. When the terms of delegation are in these terms,

it is not permissible, as I think, to read them as including the power to revise or modify a schedule of timings already fixed or approved. The

delegation to the Secretary, in my opinion, is only off the power of the Regional Transport Authority under sub-rule (1) of Rule 269 as amended

and not of the power under sub-rule (2) of that Rule.

4. It follows from my construction of Rules 269 and 134-A(xy) and S. 48(3)(iii) and (iv) as they are now in force, the Secretary of the Regional

Transport Authority has no power to revise or modify the timings already fixed or approved for the first respondent's bus.

5. Mr. Chengalvarayan also urged that, where a revision or modification of timings involved a change of starting place, such revision is not within

the delegated power of the Secretary. He refers to Rule 268 which relates to starting places and termini and confers power in that regard on the

Regional Transport Authority. This rule has been substituted by a new rule in 1953 which does not speak of starting places but only of termini.

Anyway, on the view I have expressed on the scope of delegation of power to the Secretary in regard to revision or modification of timings once

fixed or approved, it is unnecessary for me to decide the submission or Mr. Chengalvarayan based on rule 268.

6. The petition is allowed and the orders of both the authorities are quashed. The petitioner is entitled to his costs from the first respondent.

Counsel's fee Rs. 100.

7. Petition allowed.