

(1956) 11 MAD CK 0003

In the Madras High Court

Case No : Writ Appeal No's. 45 and 75 of 1954

R.A. Natarajan and Another

APPELLANT

Vs

The Regional Transport Officer, Chingleput and Others

RESPONDENT

Date of Decision : 30-11-1956

Acts Referred:

Central Motor Vehicles Rules, 1989 — Rule 184(1), 185
Motor Vehicles Act, 1939 — Section 58(1)

Citation : AIR 1957 Mad 392 : (1957) ILR (Mad) 675 : (1957) 70 LW 238

Hon'ble Judges : Rajamannar, C.J;Panchapakesa Ayyar, J

Bench : Division Bench

Advocate : B. Punyakoti Chetti, for P. Babulu Reddi, R.M. Seshadri and N.G. Krishna Aiyangar, for the Appellant; A.G. and Special Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Rajamannar, C.J.—A common question arises in these two appeals which were heard together. They are from the judgments of Rajagopala

Aiyangar J. in two writ petitions Nos. 243 of 1954 and 615 of 1953 respectively. As the main judgment of the learned Judge was given in W. P.

No. 615 of 1953, we shall deal with W. A. No. 75 of 1954 first.

2. The material facts in W. A. No. 75 of 1954 are as follows: The appellant is a bus operator to Chingleput Dt. One of his buses, M.D.H. 1174

was allowed to run on the route Kancheepuram to Maduranthakam under a stage carriage permit granted to him and which was due to expire on

31-1-1953. The Regional Transport Officer, Vellore, who was then the Secretary of the Regional Transport Authority, Chingleput, in his

Memorandum dated 26-8-1952, framed a charge against the appellant that on 4-2-1952 the bus was overloaded. The appellant submitted an

explanation but the Regional Transport Officer found the appellant guilty of the charge and by his order dated 2-11-1952 suspended the permit for a period of 4 months.

The appellant filed an appeal to the Central Road Traffic Board, Madras, against this order of suspension. But that appeal was dismissed. He then

filed a revision petition to the Government u/s 64-A of the Motor Vehicles Act. The Government, by their order dated 15-5-1953, reduced the

period of suspension from four months to two months; but otherwise dismissed the revision petition. In August 1953, the appellant filed A petition

in this Court under Article 226 of the Constitution praying that this Court, may be pleased to issue a writ of certiorari or any other appropriate writ,

or order, quashing the orders of the Regional Transport Officer, Chingleput, the Central Road Traffic Board, Madras, and the State of Madras,

above referred to.

3. In the meantime, on the expiry of the period for which the permit was originally granted, i.e., on 31-1-1953, in pursuance of an application by

the appellant, the Regional Transport Officer granted a renewal of the permit from 1-2-1953 to 31-1-1954.

4. The main ground, and the only ground, with which we have to deal in this appeal, and on which the appellant bases his writ petition, is that as

the period for which the original permit was granted had expired on 31-1-1953, the order of the Government suspending the permit for two

months could not have any application to the renewed permit, which was in force from 1-2-1953. The contention was that the renewal permit,

which was in force on the date of the order of the Government, could not be suspended for any violation of a condition contained in an expired

permit. This point was taken even in the revision petition filed before the Government. The Government, however, overruled this objection thus:

The Government are advised that a permit which has been renewed is not a new permit and hence when the permit continues to be effective on its

renewal, the rights and obligations of the permit holder are also continued without interruption.

In the counter affidavit filed on behalf of the Government in the writ petition, the same plea has been urged, viz., that "when renewed the life of the

permit is only extended and no new permit is granted.

5. Rajagopala Aiyangar J. overruled the contention of the appellant. He held that there was sufficient connection between an original permit and a

permit obtained on its renewal to enable the transport authorities to cancel, or suspend, the latter for breach of the conditions committed during the

currency of the original permit. He also held that on the merits, the order of the transport authorities was right and dismissed the writ petition.

6. It was again contended before us by Mr. R.M. Seshadri, learned counsel for the appellant, that a renewed permit must be deemed to be a new

permit and it could not be suspended for a breach of a condition contained in the original permit and committed during the currency of such permit.

In support of his contention he relied on the ruling, of the Andhra High Court in *Anjaiah v. Regional Transport Officer, Guntur* 1956 2 Andh. WR

344 (A). The decision certainly helps the appellant. The learned Judges there held that the suspension order passed for breach of one of the

conditions of the old permit could not be enforced against a new permit. The reasoning of Bhimasankaram J. who delivered the judgment of the

Court may be thus stated in his own words:

An applicant for renewal of a stage carrier permit along a particular route will generally have to survive competition along with other applicants

when he applies for renewal and all that he can claim is a preference over others if other conditions are equal. Where, therefore, a permit is

granted to him once more, It cannot, in our opinion, be treated as the old permit-extended for a fresh period..... In a case therefore like the present

one, we are of the opinion that what is granted is in essence a new permit and that is not a mere continuance of the old one. A renewal therefore in

this case would only mean a permit which is granted for fresh period or which replaces the old one by a new one, We hold accordingly, that the

suspension order passed for breach of one of the conditions of the old permit cannot be enforced against the permit now in force.

The learned Judge apparently was prepared to make a distinction between renewal of a permit of a private carrier, a motor car, and renewal of a

stage carriage permit. He says:

While in the case of a renewal of a permit of a motor cab it may not be inappropriate to describe the new permit as an old permit with an

extended period, the same cannot be said of a stage carriage permit granted to

the holder of a previous permit,

Mr. Seshadri drew our attention to an observation. In a Judgment of this Bench in W. A. No. 42 of 1956 which certainly does appear to approve

of the decision in 1956 Andh WR 344 (A). That observation is to the following effect:

We may refer in passing to the ruling of the Andhra High-Court which apparently was brought to the notice of Rajagopala Aiyangar J. 1956 Andh

WR 344 (A). The actual decision In that case was that a suspension order passed for breach of one of the conditions of the old permit could not

be enforced against a renewed permit. We may mention that this Court has also taken the same view.

Obviously the above observation was made obiter because the question which falls for decision in this case and which was dealt with by the

Andhra High Court did not arise in that case, i.e., W. A. No. 42 of 1956. It was not necessary to examine the soundness of the view taken by the

Andhra High Court for the purpose of the case then before us. We have therefore heard arguments unhampered by the above obiter dictum. We

may also mention that our attention was not drawn to any decision of this Court reported, or unreported in which the decision of the Andhra High

Court in 1956 Andh WR 344 (A) has been approved. We are free to confess that the statement in that judgment that this Court had also taken the

same view must have been based on personal recollection which probably is not accurate.

7. That there Is an intimate and integral connection between an original permit and a permit granted in renewal of It, has been laid down by this

Court in two decisions. The first is in Muthuvadivelu v. R. T. Officer, AIR 1955 Mad 143 (B). It was held in that case that though, for certain

purposes, a renewed permit may be treated as a fresh permit, the validity of a renewed permit depends on the validity of the original permit. If, for

any reason, subsequent to the grant of the original permit, it is eventually decided by a competent tribunal that it was wrongly granted, the result

would be as if no permit had ever been granted at all and even if, meanwhile, there had been a renewal of the permit, such renewal would cease to

have any effect after the original permit had been set aside. This decision was followed in W. A. No. 42 of 1956.

8. The answer to the question as to what exactly happens in law when a permit is renewed is furnished by Section 58(1) of the Motor vehicles Act, which runs thus:

A permit other than a temporary permit issued u/s 62 shall be effective without renewal for such period as the Regional Transport Authority may in its discretion specify in the permit.

Ordinarily, a permit will be effective for such period as the Regional Transport Authority specifies in the permit. This would be so if it is not, renewed. But if it is renewed, it will be effective for such period as the authority may specify in the order of renewal. This result follows from the words ""without renewal"" found in Section 58(1) of the Act. Developing the idea contained in Section 58(1) we may say that a permit ""without renewal"" shall be effective for the period specified in the original permit and shall be effective "with renewal" for such period up to which the renewal is made.

This, in our opinion, makes it amply clear that in the contemplation of the Act, it is the original permit itself which is renewed, the consequence of the renewal being to extend the period during which a permit would be in force. That this was the intention of the legislature is also clear from a perusal of the relevant rules and forms made and prescribed under the Act. Rule 184(1) says that the Transport Authority sanctioning an application for renewal of a permit shall call upon the permit holder to produce the registration certificate or certificates of the vehicle or vehicles and Part B or Parts A and B of the permit as the case may be and endorse the renewal in Parts A and B of the permit and return them to the holder. This leaves us in no doubt"" whatever that no fresh permit is issued. It is the same old permit that is produce before the Transport Authority and after endorsement of renewal is returned to the holder. Rule 185 runs as follows:

"If an application for the renewal of a permit has been made in accordance with these rules and the prescribed fee paid by the prescribed date, the permit shall continue to be effective until orders are passed on the application or until the expiry, of four months from the date of receipt of the application whichever is earlier. If orders on the application are not passed within four months from the date of receipt of the application the permit

holder shall be entitled to have the permit renewed by the Transport authority for the period specified in the application or for one year whichever

is less.....

Here again it is the same old permit which continues to be effective until orders are passed on the application for renewal and if orders are not

passed within 4 months it is the same permit which is renewed for a further period.

9. Form PSP relates to the permit in respect of a particular stage carriage. When a renewal is granted, the following endorsement is made on the

permit:

This permit is hereby renewed upto the day of 19, subject to the following further conditions:

Vide also the language of the endorsement on form PSS. So it is ""this permit"" that is renewed by the Transport Authority. Incidentally we may

draw attention to the fact that the renewal can be ""subject to the following further conditions"". This shows that in granting a renewal, the Transport

authority may impose further conditions. This is what Rajagopala Aiyangar J. held in W. P. No. 823 of 1952 (C) and undoubtedly he was right.

But as the learned Judge has observed in. the judgment under appeal, we do not consider that the decision in W. P. No. 823 of 1952 (C).

affords any countenance to the broad proposition now stated that a renewed permit has no connection whatsoever with the original permit, and

that for breach of the conditions of the original permit, action could not be taken merely because a renewal has been effected.

In W. A. No. 42 of 1956 we said, after referring to the endorsement which is made on renewal:

Therefore it would be correct to say that in one sense the renewal is of the old permit, though for certain purposes the procedure to be followed

for granting the renewal and the right of the authorities to impose new conditions may be as in the case of a new permit.

We shall now examine the reasoning of Bhimsankaram J. in 1956 Andh WR 344 (A). After referring to the decision of this Bench in AIR 1956

Mad 143 (B), and. the decision of Rajagopala Aiyangar J. in W. P. No. 823 of 1952 (C) the learned Judge says.

The question before us now is whether this case has to be decided with reference

to the rule enunciated by Rajagopala Aiyangar J. or with reference to the other rule; evidently the rule laid down in AIR 1956 Mad 143.

We fail to see the antithesis. In our judgment in W. A. No. 42 of 1956 (D) as well as in the judgment in AIR 1956 Mad 143 (B), we made It clear that we did not disagree with the decision of Rajagopala Aiyangar J. in W. P. No. 823 of 1952 (C). That decision is not in any way inconsistent with the decision in K. Muthuvadivelu v. R. T. Officer, AIR 1956 Mad 143 (B). In certain respects, the renewed permit may resemble a fresh permit, e.g., in the procedure that has to be followed before a renewal is made and the right of the transport authorities to Impose new conditions.

But the question is whether, after renewal the original permit does not continue in force for a further period. In our opinion, it certainly does according to the provisions of the Act, the rules and the forms prescribed. No convincing reasons have been given in 1956 Andhra WR 344 (A) for the contrary conclusion reached therein.

Bhimasankaram J. in, Anjiah's case, referred to the definition of ""permit"" as Including a permit relating not only to a stage carriage but also to other kinds of transport vehicles, such as a motor cab and a private carrier, and says that permits, other than stage carriage permits, are almost automatically renewed, such as one in the case of a motor cab or one authorising an owner to use a vehicle as a private carrier. The learned Judge is evidently of opinion that in these cases there is no question of competition. We do not share that assumption. There may be circumstances in which the transport authorities may think it desirable to restrict the number of motor cabs, or private carriers. Then there would be competition: of course the person having already a permit being entitled to a preference.

What is interesting to note however is that the learned Judge is apparently of the view that in the case of a renewal of a permit of a motor cab it may not be inappropriate to describe the new permit as an old permit with an extended period; but he considered that the same cannot be said of a stage carrier permit granted to the holder of a previous permit. We fail to see why. If the learned Judge's conclusion is based on the fact that in the case of a motor cab there is an almost ""automatic renewal"" then we may point out to Rule 185 under which, in certain circumstances, there may be an ""automatic renewal"" (not an almost automatic renewal) of a stage carriage

permit also. In such a case, that is when there is an automatic renewal of a stage carriage permit, following the reasoning of the learned Judge it would not be inappropriate to describe the new permit as an old permit with an extended period. We may also point out in this connection to the language of the endorsement of renewal on form PC which relates to a permit in respect of a particular contract carriage, and to form PPC which relates to a private carrier's permit. The language is identical with the language used for endorsement of renewal on a stage carriage permit. With great respect to the learned Judge, we think that the distinction sought to be made by him between renewal of a permit of a motor cab or private carrier and renewal of a permit for a stage carriage is not warranted, With due deference to the learned Judges we find ourselves unable to accept their decision in 1936 Andh WR 344 (A). We hold that it is the same permit which continues to be in force for a further period when it is renewed after the expiry of the period for which it was originally granted. It follows that for a breach of any of the conditions committed during the period of the original permit, a penalty can be enforced during the further period for which the permit continues to be in force after renewal. We are therefore in agreement with the Judgment of Rajagopala Aiyangar J. The appeal is dismissed. There will however be no order as to costs. The same point arises in W. A. No. 45 of 1954. Following our above decision, we dismiss this appeal also. "There will be no order as to costs.