
(1961) 12 KL CK 0024
In the High Court Of Kerala
Case No : O.P. No. 3021 of 1961

Raghavan

APPELLANT

Vs

S.T.A.T., Ernakulam and Others

RESPONDENT

Date of Decision : 04-12-1961

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1962) KLJ 493

Hon'ble Judges : C.A. Vaidialingam, J

Bench : Single Bench

Advocate : V. Sankara Menon and M. Raman Menon, for the Appellant; V. Balakrishna Eradi for Respondent 3 and P.R. Nambiar and M.K.B. Nambudiripad for Respondent 4, for the Respondent

Final Decision : Dismissed

Judgement

C.A. Vaidialingam, J.—In this writ petition, Mr. V. Sankara Menon, Learned Counsel for the petitioner, challenges the order of the State Transport Appellate Tribunal, Ernakulam, Ext. P. 2 reversing the order of the R.T.A. granting a permit in favour of the writ petitioner. In response to a notification issued by the R.T.A. Kozhikode, in 1956, calling for applications for the grant of two stage carriage permits over the route Mankavu Ferry--West Hill, there were 18 applicants and the petitioner was the third applicant therein. The R.T.A. mainly on the basis of the marks given to the various applicants granted one permit each in favour of the writ petitioner and the 11th applicant. There were appeals filed by the disappointed applicants against the grant made by the R.T.A. and at one stage the S.T.A.T. remanded the appeals for fresh disposal by the R.T.A. That order was challenged in this Court in writ petitions and as per the final orders passed in these writ petitions the S.T.A.T. itself was directed to dispose of the appeals.

2. In consequence of the orders passed by this Court in the said writ petitions, the S.T.A.T. took up the appeals afresh and ultimately it has confirmed the grant in favour of the 11th applicant but so far as the grant made in favour of the writ

petitioner, namely, the third applicant was concerned, it set aside the same and in turn granted a permit in favour of the first applicant.

3. It is this order of the Appellate Tribunal that is challenged by Mr. V. Sankara Menon, Learned Counsel for the petitioner. The Learned Counsel urged two grounds of attack, namely, the marks given by the R.T.A. should not have been interfered with by the Appellate Tribunal and secondly, the statement contained in the order of the Appellate Tribunal that the petitioner had no sector qualification is not correct.

4. Both these contentions have been met by Mr. V. Balakrishna Eradi, Learned Counsel appearing for the first applicant, and Mr. M.K.B. Namboodiripad, Learned Counsel for the 11th applicant, namely, the two grantees for the route.

5. Both the Learned Counsel have drawn my attention to this aspect, namely, that even the R.T.A. has not awarded any mark in favour of the writ petitioner under the heading "sector qualification." Therefore, both the Learned Counsel urged that this contention advanced on behalf of the petitioner is devoid of merits and quite naturally regarding the other contention about the award of marks both the Learned Counsel have relied upon the decision of the Supreme Court in *R. Abdulla Rowther v. S.T.A. Tribunal* (A.I.R. 1959 S.C. 896) to the effect that the relevant Government orders regarding the award of marks are no more than administrative instructions and if the rules regarding assignment of marks have been infringed by any of the subordinate Tribunals it does not amount to an error of law at all so as to be interfered with by this Court under Article 226 of the Constitution.

6. The first contention of the Learned Counsel based upon the reduction made by the Appellate Tribunal in the marks given to the petitioner has to be negated on the basis of the decision of the Supreme Court.

7. The second contention, namely, regarding the sector qualification, has also to be rejected on the ground that even the R.T.A. which gave marks has not chosen to recognise any sector qualification in the petitioner. No doubt, Mr. V. Sankara Menon, Learned Counsel, urged that his client has been running a service in 1952 in a part of the route. But all these are aspects which should have been taken into account by the R.T.A. and more especially when it has not chosen to recognise any sector qualification in the petitioner, it follows that the reasoning of the appellate Tribunal that the writ petitioner does not have any sector qualification will have to be accepted. In the result, the writ petition fails and is dismissed with costs of respondents 3 and 4, one set, to be shared by them.