
(1986) 07 KAR CK 0031
In the Karnataka High Court
Case No : W.A. No's. 282 of 1985 etc.

Rajeeva Alwa

APPELLANT

Vs

Shankaranarayana

RESPONDENT

Date of Decision : 31-07-1986

Acts Referred:

Karnataka Contract Carriages (Acquisition) Act, 1976 — Section 19 (3)

Citation : (1986) ILR (Kar) 3121

Hon'ble Judges : Puttaswamy, J;Mahendra, J

Bench : Division Bench

Advocate : R.U. Goulay and B.B. Mandappa, for the Appellant; M. Narayanaswamy, for the Respondent

Final Decision : Allowed

Judgement

Puttaswamy, J.—As the questions that arise for determination in these cases are common, we propose to dispose of them by a common judgment.

2. Under the Karnataka Contract Carriages (Acquisition) Act of 1976 (Karnataka Act 21 of 1976) ("the Act") which replaced the Karnataka Contract Carriages (Acquisition) Ordinance of 1976 (Karnataka Ordinance No. 7 of 1976) providing for acquisition of contract carriage permits and vehicles from their previous owners, as many as 2615 persons in different categories were absorbed in the Karnataka State Road transport Corporation (KSRTC) on and from 30-1-76 and thereafter. In these cases we are concerned with a limited question of those that are absorbable under the Act, that too only in two categories of Supervision Staff and Managers and Ministerial and Secretarial staff. We have in our Judgment rendered to-day in K.S.R.T.C. Vs. Rajeev Alwa, traced the history of legislation, the various developments and facts of absorption u/s 19(3) of the Act. We do not therefore propose to re-state all of them in these cases. We may also state that our Judgment in these cases in reality is only a continuation of our Judgment in K.S.R.T.C. Vs. Rajeev Alwa, .

3. Section 19 of the Act stipulated that the personnel absorbable and absorbed in different categories should be absorbed in the corresponding posts of the KSRTC. All those that were legally absorbable were required to be absorbed in the corresponding posts of the KSRTC. Section 19 of the Act while stipulating the category-wise ratio for absorption, also stipulated the guidelines for absorption of personnel working with ex-contract carriage operators. With the object of effectuating the scheme of absorption, Government of Karnataka constituted a High Power Committee presided over by the then Secretary to Government, Home Department Sri B.S. Hanuman ("Hanuman Committee") to examine and decide on the absorption of the personnel drawn from ex-contract carriage operators in the corresponding posts of the KSRTC u/s 19(3) of the Act. The Hanuman Committee held several meetings, carefully examined all aspects and ultimately on 2-6-1976 decided as hereunder :

"GOVERNMENT OF KARNATAKA

PROCEEDINGS OF THE MEETING OF THE COMMITTEE SET UP BY GOVERNMENT HELD IN THE CHAMBERS OF THE COMMISSIONER FOR HOME AFFAIRS AND SECRETARY TO GOVERNMENT ON 2ND JUNE 76, AT, 12-00 HOURS

Ref: (i) Order No. HD 22 TRE 76 dated 18-3-1976

(ii) Order No. HD 22 TRE 76 dated 9-4-1976

(iii) Proceedings of the meeting KST. CO. ME. SPL. OFF/40 dated 31-5-1976.

(iv) Meeting notice No. KST. CO. ME. SPL. OFF/45. dated 31-7-1976.

The following officers were present:

1. Sri B.S. Hanuman, IAS Commissioner for Home Affairs Chairman 2. Sri S. Ramanathan, IAS Vice-Chairman, KSRTC Member 3. Sri. S.M. Patnaik, IAS, General Manager, KSRTC Member 4. Sri. Y.B. Sankagoudar, Chief Mechanical Engineer, KSRTC. Member 5. Sri. B.K. Srinivasan, Chief Traffic Manager, KSRTC Member 6. Sri P. Ramachandrappa, Special Traffic Officer, KSRTC Member 7. Major S.S. Wasley, Deputy General Manager (A) Member 8. Sri K.P. Ramakrishna, Under Secretary to Government (Transport) Member

As decided in the earlier meeting, the General Manager, KSRTC vide his letter No. KST. CO. RTC. CC 972. 1976 dated 29-5-1976, has sent the proposals for equation of various posts held by the Employees of Ex-Contract Carriage Operators, with the posts prevalent in KSRTC. The proposals were gone into category-wise and the same were accepted with some changes. The equation of posts as finalised by the Committee is shown in the Annexure herein enclosed. It was decided that even in the case of Helpers/Cleaners a trade test should be held and the staff graded by a Committee for the posts of Helper "B", Helpers "A" and Assistant Artisan on the basis of their technical competency, experience, ability, etc., before actual absorption keeping the guidelines in view. Similarly, it was decided that all the other employees of Contract Carriage Operators, who are

eligible for absorption, should also be interviewed by a committee for purposes of equation on the basis of experience, ability duties and responsibilities so that some norms are followed in absorbing them.

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ALL CATEGORIES EQUATED TO (EXPLANATION) TRAFFIC BRANCH

KSRTC (Equation) Different Categories of posts with contract carriage operators. Remarks

1 2 3

1. Conductors. i) All those who have been working as Conductors.

ii) Broking clerks with conductors licence.

iii) Loaders with conductors licence.

iv) Line Clerks with conductor licence.

v) Conductor at Bus Stand with conductor's licence.

2. Drivers.

Drivers, Mechanical Drivers who are in possession of HTV/PVS Badge and age as prescribed under M. V. Act and Rules.

3. Traffic Controllers i) Traffic Controllers, Line Checking Clerks, Clerk-cum-checking/Checking.

ii) Bus Dispatchers from stand.

iii) Paid agents (not on commission basis) who were despatching buses on the pay roll.

iv) Tourist guide.

v) Line Checking Clerk.

4. Assistant Traffic Inspectors i) Line Checking Inspector/Checking Inspector.

ii) Stand Traffic Managing official.

5. Traffic Inspectors. i) Traffic Inspector.

ii) Traffic Supervisor.

iii) Traffic Superintendent.

MECHANICAL BRANCH

1. Helper "B" Helper "A" 1) Helper: Cleaner, Mechanic Helper; Cleaner-cum-helper. Subject to Trade Test,

2. Asst. Artisan. 1) Electrician Tinsmith : Sheet Metal Worker: Glass Fitter; Tyre

Fitter; Blacksmith; Upholster, Carpenter; Welder; Fainter Mechanic : Machinist.

3. Artisan "A" 1) Sr. Mechanic, Sr. Electrician, Sr. Painter, Sr. Carpenter, Sr. Welder, Sr. Tinsmith Upholster, Mechanic, Machinist Subject to trade test

4. Head Artisan 1) Sr. Mechanic, Sr. Machinist, Sr. Electrician Foreman Asst. Foreman, Sr. Carpenter Welder, Upholster, Painter, Tinsmith, Sheet Metal Worker, Glass Fitter, Tyre Fitter, Blacksmith Subject to fade test

5. Chargeman Asst. Works Superintendent 1) Workshop Supdt., Workshop Supervisor, Electrical/Mechanical Supervisor. -do-

Sd/- P. Ramachandrappa, Convenor".

This decision was also approved by Government on 11-8-1976.

4. In conformity with the above decisions, all those legally absorbable personnel in the corresponding posts of the KSRTC, were assigned appropriate rankings in the appropriate cadres or corresponding posts of the KSRTC.

5. In Writ Petitions Nos. 4451, 7639 and 8611 of 1977 several employees of the KSRTC working in the cadres of clerks and conductors approached this Court challenging the absorption of a number of persons in the categories of Clerks and Traffic Controllers etc. on a large number of grounds, which were resisted by the KSRTC and the absorbed employees.

6. On 10-1-1985 Doddakalegowda, J. allowed Writ Petition No. 7639 of 1977 filed by Sriyuths H.N. Shankaranarayana, N S. Keshava Murthy and Munawar Hussain who were working as clerks and who had challenged the absorption of 7 clerks arrayed as respondents 3 to 9 in that Writ Petition. On 30-1-1983 the same Learned Judge allowed Writ Petitions Nos. 4451 and 8614 of 1977 filed by the petitioners by another common order substantially following his earlier decision in Writ Petition No. 7639 of 1977 rejecting one more additional ground urged for the KSRTC and the absorbed employees in those cases. Aggrieved by these orders of Doddakalegowda, J, the K. S. R. T. C. and the absorbed employees have filed these Writ Appeals. Writ Appeals Nos. 282 and 2321 of 1985 are filed against the order in Writ Petition No. 7639 of 1977. Writ Appeals Nos. 1938, 1939, 2001 & 2002 of 1985 are filed against the common order made in Writ Petitions Nos. 4451 and 8614 of 1977.

7. Sriyuths R. U. Goulay and B. B. Mandappa, learned Advocates have appeared for the appellants. Sri M. Narayana Swamy, learned Advocate has appeared for the contesting respondents.

8. Sriyuths Goulay and Mandappa contend that in conformity with Section 19 (3) of the Act, the employees of ex-contract carriage operators had been properly absorbed in the corresponding posts of the KSRTC and every one of the grounds on which the learned Judge took exception to the same was unsound.

9. Sri Narayanaswamy sought to support the orders of the learned Judge.

10. In Writ Petition No. 7639 of 1977 the learned Judge held that "Rules" or law regulating equations must first be framed and then the equations made in conformity with the same both of which had not been complied with in the absorption of the personnel. In Writ Petitions Nos. 4451 and 8614 of 1977 the learned Judge held that the Hanuman Committee had not actually decided the equations but "only attempted to do the same". We must first examine whether the finding of the learned Judge in Writ Petition No. 4451 and 8614 of 1977 is correct or not.

11. We have earlier reproduced the proceedings of the Hanuman Committee held on 2-6-1976 to which Government had also accorded its sanction. Those proceedings must necessarily be read with the proceedings held by that Committee from time to time and all the material that was placed, examined and decided. We have carefully read all of them. When they are all properly read, that too in their proper context, we find it difficult to hold that Hanuman Committee had only attempted to do but had not done the equations as held by the learned Judge. When they are all properly examined, it is clear that the Hanuman Committee with due regard to Section 19(3) of the Act had done the equations or the absorptions of the personnel legally absorbable in the corresponding posts of the KSRTC. We, therefore, with respect to the learned Judge regret our inability to uphold the contrary finding of the learned Judge.

12. We have earlier analysed the requirements of Section 19(3) of the Act, We are of the view that very Section sets but the principles or the law for absorption. Section 19(3) of the Act itself contains the guidelines, indicia or principles for absorption. If that is so, a separate law to determine the absorption or equations was not a condition precedent to complete the absorptions or the equations as held by the learned Judge. With respect, we regret our inability to uphold the said finding of the learned Judge also.

13. We are also of the view that the Hanuman Committee had completed the absorptions or equations with due regard to the requirements of Section 19(3) of the Act.

14. On the foregoing discussion, it follows that the orders under appeals cannot be upheld and all the Writ Petitions are liable to be dismissed.

15. In the result, we allow these appeals, set aside the orders dated 10-14985 and 31-1-1985 of Doddakalegowda, J. in Writ Petitions Nos. 4451, 7639 and 8614 of 1977 and dismiss those Writ Petitions.

16. Writ Appeals allowed. But, in the circumstances of the cases, we direct the parties to bear their own costs throughout.