

(1968) 10 MAD CK 0009
In the Madras High Court

S. Pachiappa Mudaliar, Proprietor, Lakshmi S.P.S. Vilas	APPELLANT
Vs	
The State Transport Appellate Tribunal and Another	RESPONDENT

Date of Decision : 08-10-1968

Acts Referred:

Citation : (1969) 1 MLJ 597

Hon'ble Judges : K. Srinivasan, J

Bench : Single Bench

Judgement

K. Srinivasan, J.—Bus P.-2739 was found to be overloaded by two passengers at the time it was checked by the Regional Transport

Officer on 8th November, 1964. When the explanation of the permit-holder was called for, he only stated that the checking officer had not

obtained the signatures of the conductor and the driver on the check report, nor did he obtain the signatures from the passengers who travelled in

the bus. The operator further stated that he was told by the driver and the conductor that there was no overload. He claimed further that he had

ascertained from the passengers who travelled in the bus that there was no overload and he produced affidavits from two alleged passengers

signed by them on 29th December, 1964 and 30th December, 1964. The Regional Transport Authority, who dealt with the matter was not

prepared to accept the explanation, He found the offence of overloading established, and suspended the permit for one day. The operator

appealed to the State Transport Appellate Tribunal, who confirmed the order. These orders are attacked in this writ petition.

2. I am really unable to find any substance in the contentions put forward on behalf of the petitioner. It was stated by the learned Counsel that the

checking officer had not made a contemporaneous record, which would establish that the driver and the conductor had refused to sign the check report. I find from the records of the case, however, that even in the body of the report of the checking officer, it was clearly stated that after he drew up the check report, the conductor and the driver refused to sign it, saying that there was no overload, but that he had entered the bus and counted the passengers himself and there was absolutely no uncertainty about the overloading. He also secured the trip-sheet maintained by the stage-carriage and endorsed upon the trip-sheet that he checked and found 53 passengers instead of the seating capacity of 51, and that the conductor and the driver refused to sign the check report. It is no doubt true that he could have obtained the signatures of one or the other of the passengers, but that he failed to do so does not discount the veracity of his report in any way. The fact that the trip-sheet was taken possession of by the checking officer is positive proof that the vehicle was checked at that time and on that day. As against this, the operator's claim that there was no overload is based upon what he was told by the driver and the conductor and by two persons who were put forward as passengers in the bus at the time. The authorities below chose to accept the statement of the checking officer.

3. It is urged that this is in the nature of a quasi-criminal proceeding and that when once some doubt has been cast upon the question whether there was an overload or not, the Regional Transport Authority should have held an enquiry. I am not aware that any decision has stated that in cases such as this, an enquiry comprising of the examination of witnesses on either side should be embarked upon. The operator only persisted in his denial and nothing more. It is noteworthy that he did not produce any affidavit from the driver or the conductor, for there is nothing to show that the persons from whom affidavits have been produced were really passengers in the bus. The material consisting of the check report and the explanation of the operator is sufficient to enable the enquiring authority, the Regional Transport Authority, to reach a conclusion with regard to the matter. I am not satisfied that an enquiry was called for in the circumstances of the case. Indeed, as the State Transport Appellate Tribunal points out, the operator does not charge the checking officer with any ill-will towards him which induced him to make a false report. In the absence of any

such allegation, the checking officer's statement is entitled to acceptance. ,

4. It was urged that the Regional Transport Authority is not a judicial officer. Section 44(2) of the Motor Vehicles Act has been referred to, which

requires that the Regional Transport Authority shall consist of a Chairman, who has judicial experience, and such other officials and non-officials,

not being less than two. By a proviso, the Regional Transport Authority may consist of a single official, if the State Government thinks fit. It is urged

that the Regional Transport Authority in this case being only an officer of the Indian Administrative Service is not a person who can be said to have

judicial experience, and that Section 44(2) requires that even if the Regional Transport Authority is to consist of a single official, that officer should

be one who has had judicial experience. This question has been considered by me in Sri Narayan Motor Service v. Ram Popular Motor Service

and two others W.P. No. 2336 of 1965 where I held that the appointment of an officer of the Indian Administrative Service as the Regional

Transport Authority does not infringe the section. This point accordingly fails.

5. Nextly it was urged that the Regional Transport Authority acting under Rule 134-A (11) of the Motor Vehicle Rules delegated the power to

suspend a permit to the Secretary of the Regional Transport Authority and that thereafter he could not himself make an order of suspension. Rule

134-A (11) has been struck down by a Bench of this Court in Batcha Saheb v. Secretary, Regional Transport Authority, North Arcot. W.A. No.

202 of 1966 ,etc The argument that the Regional Transport Authority having delegated the power of suspension can no longer exercise it must

necessarily fail, because the delegation itself has been found to be invalid. That would accordingly leave the entire power to cancel or suspend the

permit contemplated by Section 60 of the Motor Vehicles Act in the hands of the Regional Transport Authority, and in this case, it is the Regional

Transport Authority, who enquired into the matter that has imposed the suspension on finding the offence of overloading established.

6. The points urged against the orders fail. The petition is accordingly dismissed There will be no order as to costs.