

(1973) 06 KL CK 0036
In the High Court Of Kerala
Case No : O.P. No. 2075 of 1973

The Managing Partner, Deccan Travels	APPELLANT
Vs	
The Malabar Motor Transport Co-operative Society Ltd., for Ex-servicemen and Others	RESPONDENT

Date of Decision : 26-06-1973

Acts Referred:

Motor Vehicles Act, 1988 — Section 62

Citation : (1973) KLJ 801

Hon'ble Judges : V. Balakrishna Eradi, J

Bench : Single Bench

Advocate : V. Sivaraman Nair, for the Appellant; M.P. Menon, for the Respondent

Final Decision : Dismissed

Judgement

V. Balakrishna Eradi, J.—By a notification dated 4 41973 the Regional Transport Authority, Malappuram-2nd respondent-invited applications for the grant of a temporary stage carriage permit to operate service on the route Karulai-Calicut (Via) Nilambur, Mampad, Edavanna, Manjeri and Feroke. The writ petitioner as well as the first respondent figured as rival applicants for the grant of the said permit. The Regional Transport Authority considered the subject at its meeting held on 30 41973 and decided to grant the temporary permit to the writ petitioner. Ext. P1 is a copy of the proceedings of the Regional Transport Authority incorporating the said decision. The first respondent took up the matter in appeal before the State Transport Appellate Tribunal, Ernakulam (3rd respondent). The Tribunal allowed the appeal, set aside the grant made by the Regional Transport Authority in favour of the writ petitioner and directed that the temporary permit should be issued to the first respondent. Ext. P3 is a copy of the judgment of the State Transport Appellate Tribunal. The writ petitioner seeks to quash Ext. P3. The first contention advanced by the learned Advocate appearing on behalf of the writ petitioner is that the State Transport Appellate Tribunal ought to have summarily rejected the appeal filed by the first

respondent on the ground that the application filed by the first respondent before the Regional Transport Authority requesting for the grant of the permit was not a valid one in as much as it did not specify the particular temporary need for serving which the permit was requested for. It is pointed out on behalf of the petitioner that neither in the application filed by the first respondent in Pro Forma P.T.A. nor in the covering letter was any particular temporary need made mention of and that it was only stated that the application was being made in response to the invitation contained in the Regional Transport Authority's notification. According to the petitioner the said application did not satisfy the requirements of law and great reliance is placed in support of this contention on the observations contained in the judgment of the Supreme Court reported in *Andhra Pradesh State Road Transport Corporation v. K. Venkataramireddy*, 1971 (3) SCC 803 . The second contention taken on behalf of the writ petitioner is that the State Transport Appellate Authority has proceeded under an erroneous impression that R. 177 A lays down a rigid principle making it obligatory under all circumstances to prefer a fleet owner in granting permits over long distance routes and that this approach is in correct. It is pointed out that the petitioner had offered a 1971 model vehicle whereas the first respondent had offered to put on the road only a 1968 model vehicle and this relevant fact has been totally omitted to be taken note of by the Tribunal.

2. I do not find it possible to accept the petitioner's contention that the appeal filed by the first respondent ought to have been rejected in limine on the ground that the first respondent had no locus standi to maintain the same. As already noticed, the ground on which the argument proceeds is that the application filed by the first respondent before the Regional Transport Authority was not a valid one because it did not contain any mention of a specific temporary need. In my opinion, in cases like the present one where the Regional Transport Authority has notified its proposal to issue a temporary permit on a particular route and invited applications from operators who are willing to conduct the service it will not be reasonable to insist that persons applying in response to such an invitation should make mention of any particular temporary need in their applications. In the case reported in *Andhra Pradesh State Road Transport Corporation v. K. Venkataramireddy*, 1971 (3) SCC 803 , the State Transport undertaking, Andhra Pradesh, had filed suo moto applications before the Regional Transport Authority for the grant of certain temporary permit under S. 62 of the Motor Vehicles Act without mentioning any temporary need whatever and it is in that context that their Lordships said that such an application would be liable to be rejected in limine by the Regional Transport Authority. The said observations cannot be regarded as applicable to a case like the present one where the Regional Transport Authority itself has invited applications for the grant of a temporary permit which can obviously be only for the purpose of satisfying a particular temporary need considered by it to exist. In such a case the applicants need only state in the application that it is being submitted in response to the notification issued by the Regional Transport Authority, as has been admittedly done by the

first respondent in the application filed by him. The argument of the petitioner that the first respondent's application was not a valid one and that the State Transport Appellate Tribunal acted illegally in entertaining the appeal cannot therefore stand.

3. A mere perusal of the judgment of the State Transport Appellate Tribunal is sufficient to show that the Tribunal has carefully considered the relative merits and qualifications of the first respondent and has come to the conclusion that the first respondent is by far possessed of superior qualifications. There is no scope at all for interference by this court with the said finding of fact entered by the Tribunal. The original petition therefore fails and is dismissed. The parties will suffer their costs.