
(1973) 01 AHC CK 0027

In the Allahabad High Court

Case No : Special Appeal No. 42 of 1971

The Regional Transport Authority and Another

APPELLANT

Vs

Sri Ram

RESPONDENT

Date of Decision : 25-01-1973

Acts Referred:

Motor Vehicles Act, 1939 — Section 58(2), 64(1)

Citation : AIR 1974 All 140

Hon'ble Judges : Prem Prakash, J; Jagmohan Lal, J

Bench : Division Bench

Advocate : Umesh Chandra, for the Appellant; A.J. Fanthome, for the Respondent

Final Decision : Dismissed

Judgement

Jagmohan Lal, J.—This special appeal has been filed on behalf of the Regional Transport Authority, Meerut Region and the State Transport Appellate (Tribunal), U.P. Lucknow against a decision of the learned single Judge of this Court dated February 8, 1971 passed in writ petition No. 625 of 1968.

2. The brief facts of the case were that the respondent Sri Ram was granted a stage carriage permit by the Regional Transport Authority, Meerut under the provisions of the Motor Vehicles Act, 1939 (hereinafter called the Act) for plying a bus on Bulandshahr-Jahangirabad route. On the authority of this permit he was plying a vehicle No. UPP-1456. On 25-6-1966 this vehicle met with a serious accident by catching fire as a result of which several passengers died and the bus was also burnt. The respondent then applied for replacement of the vehicle under the same permit but no orders were passed on that application. On the other hand, on July 29, 1966 a notice was issued to the respondent u/s 60 of the Act to show cause as to why his stage carriage permit should not be cancelled. The respondent lent a reply to this notice on 4-8-1966. Subsequently the Regional Transport Authority passed an order suspending the permit of the respondent. This permit was valid upto 12-1-1967. When the term of the validity of this

permit was about to expire the respondent applied for its renewal u/s 58. His application was, however, rejected by the Regional Transport Authority under Sub-section (2) of Section 58. The ground for this rejection was probably that in the opinion of the Regional Transport Authority the respondent had not taken sufficient precaution in plying his bus which led to that unfortunate accident on 25-6-1966. Feeling aggrieved by this order of rejection passed by the Regional Transport Authority the respondent filed an appeal before the State Transport Appellate (Tribunal), U.P. Lucknow u/s 64 (1) (e). It may be mentioned that in connection with that accident the driver and the conductor of the bus had been prosecuted. Both of them were, however, acquitted. By the time the appeal of the respondent was heard by the Tribunal this judgment of acquittal had been passed. The respondent requested the Tribunal to take that judgment also into consideration before deciding the appeal. That judgment was not, however, taken on record by the Tribunal who also dismissed the appeal filed by the respondent.

3. Feeling aggrieved by this decision the respondent filed a writ petition in this Court in which he impleaded the Regional Transport Authority and the Tribunal as opposite-parties. The learned Single Judge, who decided the writ petition, was of the opinion that this judgment of acquittal which had come into existence subsequent to the decision of the Regional Transport Authority but before the appeal was disposed of by the Tribunal, should have been taken into consideration by the Tribunal and thereafter he should have passed such orders in the appeal as he considered fit. He accordingly quashed the order passed by the Tribunal and remanded the case to that authority for disposal of the appeal in accordance with law after taking into consideration the judgment of the magistrate in which the acquittal of the respondent's driver and conductor had been recorded. It is against this decision that the present special appeal has been filed by these two authorities.

4. A preliminary point has been raised on behalf of the respondent that these authorities which are quasi-judicial authorities and whose orders passed under Sections 58 (2) and 64 (1) are quasi-judicial orders, had no locus standi to file this special appeal. We are of the opinion that this preliminary point has considerable force in it. In our opinion a judicial authority or quasi-judicial authority has no personal interest in the confirmation or reversal of its order passed in its judicial or quasi-judicial capacity and, as such, it is not competent for that authority to maintain a writ under Article 226 or file an appeal against such order simply because the order passed by that authority has been reversed by a superior authority.

5. The Supreme Court in Civil Appeal No. 878 of 1963, State Transport Authority Tribunal and Regional Transport Authority, Meerut v. Mohd. Luqman Shariff decided on 6-1-1966 had also taken the same view. Their Lordships refused to entertain the appeal filed by these bodies even though a certificate of fitness had been granted by the High Court. It was observed by them.

"We do not propose to entertain this appeal because, in our opinion, the

Transport Authorities are not entitled to come to this Court challenging the decision of the High Court. If the parties aggrieved by the order had come to this Court it would have been another matter. That being our view we direct that the certificate issued by the High Court should be cancelled."

6. The learned Standing Counsel argued that the appeal to the Supreme Court filed under Article 132 stands on a different footing from an appeal provided by Rule 5 of Chapter VIII of the Rules of this Court which permits the filing of a special appeal against the judgment of a Single Judge. It is true that under Article 132 an appeal lies to the Supreme Court only after obtaining a certificate from the High Court that the case involves a substantial question of law as to the interpretation of the Constitution or is otherwise fit for appeal, or when the Supreme Court itself grants special leave to appeal. But in this case the certificate was not cancelled by the Supreme Court on the ground that no substantial question of law was involved but on the ground that the appellants, who were the transport authorities in that case, were not entitled to file the appeal challenging the decision of the High Court. It is obviously based on the rule of judicial discipline. If the order passed by a judicial authority is reversed by a superior Court it is not for that authority to appeal against that decision which would virtually amount to saying that the decision of the higher authority is incorrect while its own decision is correct. That appears to be the reason why these transport authorities, who had passed quasi-judicial orders, were not allowed to appeal against the order of the High Court, So far as the provision about filing of a special appeal is concerned Rule 5 of Chapter VIII of Rules of Court is similarly worded as Article 132 of the Constitution. There is also another Bench decision of this Court in *Rent Control and Eviction Officer, Allahabad Vs. Dr. M.M. Laloraya and Others*, in which the Rent Control and Eviction Officer who had passed an order u/s 7-A of the U.P. (Temporary) Control of Rent and Eviction Act was not allowed to file a special appeal against a judgment of a learned Single Judge under which his order was quashed on the writ petition filed by an aggrieved party. In our opinion, the position of a Rent Control and Eviction Officer who passes an order u/s 7-A of the aforesaid Act is not different from the position of the Regional Transport Authority or the Tribunal passing an order u/s 58 (2) or Section 64 of the Act.

7. The learned Standing Counsel then contended that if a party aggrieved by an order passed by the Regional Authority or the Tribunal files a writ petition in which only these authorities are impleaded as opposite parties, they cannot, on the same principle, be permitted even to contest the writ petition which would amount to a canvassing on their part that their orders are correct, and it would mean that the writ will be decided *ex parte*. In our opinion the contest in the writ petition even by these authorities and thereby canvassing for the correctness of their orders stands on a different footing from contesting the order passed by this Court holding their decisions to be incorrect, by way of special appeal or an appeal to the Supreme Court.

8. In such cases where no private party is interested but the State is interested in upholding the orders passed by these quasi-judicial authorities, it would be proper to implead the State also as an opposite-party to the writ petition. Even if the petitioner does not implead the State the Chief Standing Counsel on receiving notice of the writ on behalf of the quasi-judicial authorities can request the Court to implead the State Government. Once the State Government is impleaded as a party, it can also file a special appeal or an appeal to the Supreme Court. In this case State Government was not a party. The preliminary objection, therefore, succeeds.

9. On merits also the appeal has no force. The learned Single Judge has simply directed the Tribunal to take into consideration the judgment of the criminal Court acquitting the driver and the conductor of the respondent, which had come into existence after the passing of the Regional Transport Authority's order appealed against and then to dispose of the appeal. No exception can be taken to this direction. It will be for the Tribunal to consider what weight should be given to that judgment in deciding the points involved in the appeal.

10. We accordingly dismiss this appeal. The stay order dated 5-4-1972 is vacated. In the circumstances of the case the parties shall bear their own costs.