
(1999) 11 AP CK 0052

In the Andhra Pradesh High Court

Case No : WA No's. 1766 and 1769 of 1999

Thota Srinivasa Rao

APPELLANT

Vs

State Transport Appellate Tribunal and others

RESPONDENT

Date of Decision : 30-11-1999

Acts Referred:

Andhra Pradesh Motor Vehicles Rules, 1989 — Rule 258(2)

Andhra Pradesh Motor Vehicles Taxation Act, 1963 — Section 104

Citation : (2000) 2 ALD 436 : (2000) 1 ALT 458

Hon'ble Judges : M.S. Liberhan, C.J;R. Ramanujam, J

Bench : Division Bench

Advocate : Mr. T. Venkata Ramana, for the Appellant; Government Pleader, for Transport and Mr. A.V. Sivaiah, SC for APSRTC, for the Respondent

Judgement

M.S. Liberhan, C.J.—These two writ appeals arise out of a common order of the learned single Judge, and as such, they are disposed of conjointly by this judgement.

2. The factual skeletal matrix that is not in dispute and necessary to dispose of these appeals is as follows:

The appellant originally was granted a permit to ply his bus on the Town Service Route - Tanuku Womens" College to Tanuku Womens College via Old Bus stand and Velpur (known as circular route). The appellant filed an application before the Regional Transport Authority, West Godavari, seeking variation of the said route by curtailing 6.6 kms., from Old Bus Stand to Velpur and extending it upto 9.5 kms., from Velpur to Attili via Relangi. The total length of the route after curtailment and extension is 17.8 kms., whereas in the original permit, the length of the entire route is only 15.4 kms. The Regional Transport Authority declined to grant the variation. Against that, the appellant took the matter in appeal before the State Transport Appellate Tribunal. The appellate Tribunal allowed the appeal and directed grant of variation of permit to the appellant after obtaining prior permission from the Transport Commissioner. When the matter

was placed before the Transport Commissioner for his approval, he rejected the permission on the ground that the entire route overlapped the notified route of APSRTC and that it was more mofussil in nature.

3. In the meanwhile, against the order of the Appellate Tribunal directing grant of variation of permit to the appellant, the APSRTC approached this Court by filing Writ Petition No.20070 of 1994, and against the order of the Transport Commissioner, declining to accord permission for variation of the route, the appellant filed Writ Petition No.2735 of 1997 before this Court. Since facts in both the writ petitions were interconnected, the learned single Judge disposed them of together with a common order, reported in Divisional Manager, APSRTC, Eluru Vs. State Transport Appellate Tribunal and others, against which, the present writ appeals have been filed.

4. The learned single Judge relying on the decision of the Apex Court in Shiv Chand Amolak Chand Vs. Regional Transport Authority and Another, , observed that the appellant under the veil of variation of the route by extension and curtailment, was in fact seeking, both technically as well as on principle and reality, a different and distinct route from the original circular town service route, and that the variation was drastic in character, and in reality and substance, was a mofussil route, which is cosmetically 3 kms., within the muncipal limits and 14.8 kms., beyond the muncipal limits and that it overlapped in its entire 17.8 kms., the approved route of the APSRTC in G.O.Ms.No.919, dated 24-9-1976, and thus to permit the application for variation would be abuse of text, structure and philosophy underlying the provisions of the A.P. Motor Vehicles Act in general and Chapter VI in particular, and would be contrary to the provisions of the approved scheme u/s 104. The learned single Judge having come to the conclusion that the application of the appellant for variation cannot be considered to be for variation of an existing town service route, but in fact was a mofussil route, which is contrary to the exception granted by G.O.Ms.No.919, dated 24-9-1976, and in violation of Rule 258(2)(") of A.P. Motor Vehicle Rules, 1989 held that the order of the Appellate Authority directing to grant permission cannot be sustained, and he accordingly quashed the same.

5. The learned Counsel for the appellant vehemently argued that since the appellant sought variation of the conditions of the existing permit on the existing route, question of the appellant obtaining permission of the Transport Commissioner, as envisaged by Rule 258(2)(ii) of the A.P. Motor Vehicle Rules, 1989 does not arise. He further contended that the learned single Judge erred in holding that variation sought is contrary to the provisions of the approved scheme in Section 104 of the A.P. Motor Vehicles Act, 1988, and to sustain this argument he placed reliance on a Division Bench decision of this Court in Rajappa Kawati Vs. G. Hanumantha Rao and Others, , and also drew our attention to the rough sketch of the route in question.

6. We have studied the rough sketch of the route in question in detail. A perusal of the rough sketch on the face of it clearly shows that the entire route falls

outside the municipal limits. The original permit allows the appellant to ply his bus on the Town Service Route Tanuku Women's College to Tanuku Women's College via Old Bus Stand and Velpur (circular route). But, by the present variation, the appellant sought curtailment of the curve part of the existing route by 6.6 kms. from Old Bus Stand to Velpur, and sought extension in length by 9.5 kms., from Velpur to Attili via Relangi. This clearly shows that the appellant is seeking a new permit under the veil of curtailment and extension, which in fact is more mofussil in nature rather than a town service route, and is overlapping in its entire length of 17.8 kms., the notified route of the APSRTC in G.O.Ms.No.919, dated 24-9-1976. Further it cannot be disputed that on principle of law as enshrined by the Supreme Court in *M/s. Shlv Chand Ainolak Chand's* case (supra), that if under the veil of variation of the existing permit, a new route is sought, which substantially changes the character of the existing route, the application though may be for varying the conditions of the permit, cannot be allowed because if such an application is allowed, it would amount to granting of a totally new permit.

7. Rule 258(2)(ii) of the A.P. Motor Vehicle Rules, 1989 reads as follows:

"No route of town service shall extend more than 8 Kms., beyond the limits of the municipality or town from which it starts, provided that this restriction shall not apply to any town service routes, which were in existence on the date of coming of these rules into force or in respect of those routes for which specific permission of the Transport Commissioner is obtained."

8. Under Rule 258(2)(ii) of the AP Motor Vehicle Rules, 1989 whenever a town service route exceeds 8 Kms., beyond the municipal limits, the prior permission of the Transport Commissioner is required, and in the instant case, the Transport Commissioner declined to grant the variation of the permit to the appellant.

9. There is no dispute about the fact that the route on which appellant was operating was a town service route, but the variation sought by curtailment and extension i.e., 6.6 Kms. and 9.5 Kms., respectively, is cosmetically 3 Kms., within the municipal limits and 14.8 Kms., beyond, thus totally overlapping in its entire 17.8 Kms., the approved route of the APSRTC in G.O. Ms. No.919, dated 24-9-1976, completely changing the character of the route from town service to mofussil route, and as such, the Appellate Tribunal ought not to have directed grant of variation of the route to the appellant as the variation runs contrary to the above Government Order.

10. Thus we find no error in the finding arrived at by the learned single Judge that the appellant, in fact, under the garb of variation of the route is seeking grant of a new route, which if granted would be contrary to G.O.Ms.No.919, dated 24-9-1976, without the prior permission of the Transport Commissioner, and also nothing erroneous can be found in the order of the Transport Commissioner declining to grant permission to the appellant for variation of the route.

11. In view of the above observations, we find no force in the writ appeals, and they are accordingly dismissed. No costs.