

The Cheran Transport Co. Ltd.

Vs

Kanan Lorry Service and Another

Civil Appeal Nos. 1349-1350 of 1976

(CJI A.N. Ray, M.H. Beg, V.R. Krishna Iyer JJ)

10.12.1976

JUDGMENT

KRISHNA IYER, J. –

1. The short question, involving a point of construction of Section 68-F (1D), has been raised by the Additional Solicitor General in these appeals by special leave.
2. The respondent was a stage carriage operator whose two permits were to expire in January and March 1976 (sic 1975). In the usual course and in compliance with Section 58 of the Motor Vehicles Act, 1939 (for short, 'the Act') he applied for renewal more than 120 days ahead but at the time of the actual date of expiry of the permits a draft scheme under Part IV-A had been published. This fulfilled the requirements of the proviso to Section 68-F(1D) and entitled the appellant to renewal for the limited period stated in the said proviso. But the State withdrew the draft scheme for some technical reasons and republished it in July 1975, after the appellant's permit had expired. Applying the prohibition contained in Section 68-F(1D) the Regional Transport Authority (for short the 'R.T.A.') rejected the prayer for renewal. However, the High Court set aside that order and directed the grant of renewal, on a certain view of the section which the Additional Solicitor General contends goes beyond the limits of the plain words used. The aggrieved State appeals.
3. While we are satisfied that on the peculiar facts of this case the respondent can sustain the permits the legal position canvassed by the appellant appears to be correct.
4. At the time the respondent's permit expired a draft scheme had already been published but the approved scheme had not been published. Any permit holder whose permit expires during this spell is eligible for a renewal as specified in the proviso. The fact that the draft scheme was later withdrawn cannot affect the right to a renewal. We, therefore, hold that the renewal of permit shall remain to the extent contemplated in the proviso to Section 68-F(1D).
5. Before we consider the legal question we may read Section 68-F(1D) :

(1D) Save as otherwise provided in sub-section (1A) or sub-section (1C), no permit shall be granted or renewed during the period intervening between the date of publication, under Section 68-C of any scheme and the date of publication of the approved or modified scheme, in favour of any person for any class or road transport service in relation to an area or route or portion thereof covered by such scheme :

Provided that where the period of operation of a permit in relation to any area, route

or portion thereof specified in a scheme published under Section 68-C expires after such publication, such permit may be renewed for a limited period, but the permit so renewed shall cease to be effective on the publication of the scheme under subsection (3) of Section 68-D.

6. Three propositions plainly emerge.

7. (1) No permit or renewal, except to the extent expressly saved by Section 68-F(1D), can be granted by the R.T.A. during the period between the date of publication of any scheme and the date of publication of the approved scheme. (2) If a permit expires after the publication of any draft scheme such permit is eligible for renewal for a limited period as set out in the proviso. This special provision cannot be stretched, on the ground of possible anomalies or unjust consequences, to cover permits expiring even before the publication of the draft scheme. Where the language is plain, interpretation cannot take the shape of addition or interstitial legislation. (3) A rider to proposition 2 has to be added. If a permit holder whose permit is about to expire, diligently does, in the normal course, all that he need and all that he can, that is to say, apply for renewal before 120 days, in the manner laid down in Section 58 of the Act, he sets in motion the legal machinery for the grant of renewal which must ordinarily culminate in renewal within 120 days. The fact that a scheme is published before the actual grant of renewal will not intercept or extinguish the process of law set in motion by the application for renewal. In such cases the R.T.A. has to act promptly and if the application for renewal is in conformity with the law it has to consider it and grant or reject according to merit. If, for reasons beyond the control of the applicant, the renewal process gets delayed or prolonged he cannot be penalised. Renewal is a legal process, not the final act. Save in this category of cases, all other permits which have expired before the draft scheme is published, suffer the ban of Section 68-F(1D). However, no permit can ensure beyond the time of the publication of the approved scheme. This saves cases of bona fide applications for renewal of permits, not calculated to thwart a scheme, and helps the travelling public during the interregnum when the scheme is under scrutiny. The wider proposition accepted by the High Court that all permits which have expired before the draft scheme is published can be renewed does not appear to be correct and does not have our approval.

8. With this declaration of the law we dismiss the appeals. No order as to costs.

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