

M/s. Anna Transport Corporation Ltd.

Vs

Regional Transport Authority, Dharmapuri and Others

Civil Appeals Nos. 2780-2782 of 1977

(N. L. Untwalia, P. N. Shinghal, V. D. Tulzapurkar JJ)

23.07.1980

JUDGMENT

SHINGHAL, J. –

1. These appeals by special leave are directed against a common judgment of the Madras High Court dated August 22, 1977, in three revision petitions against the orders of the State Transport Corporation, Madras, dated February 16, 1977, by which the High Court allowed the revision petitions and remitted the cases to the Regional Transport Authority for fresh consideration in the light of its observations. The High Court directed further that the revision petitions before it as well as the present appellant Corporation would continue to provide transport facilities on the route in question until the disposal of the renewal applications of the revision petitioners.
2. The facts of the three appeals are quite simple and are not in controversy. They have been heard together at the instance of the learned counsel for the parties and will be disposed of by this common judgment.
3. The controversy relates to the plying of vehicles on the Salem-Krishnagiri route. The facts of one of the three cases have been placed for our consideration by the learned counsel for the parties and they have informed us that they are sufficient for the adequate disposal of all the appeals.
4. Balakrishna Bus Service and Company, respondent 2, was a private operator on the aforesaid route. Its permit was due to expire on October 9, 1974, and it applied for its renewal within the time prescribed by law. Its application was notified on June 5, 1974, under Section 57(3) of the Motor Vehicles Act, hereinafter referred to as the 'Act'. Objections to the renewal application were filed by the Anna Transport Corporation Limited, which is the present appellant, on June 25, 1974. The Corporation, at the same time, also applied for the grant of a permit to it. A controversy, therefore, arose in the matter and the Regional Transport Authority fixed December 21, 1974, for its hearing. The case was, however, adjourned. Balakrishna Bus Service and Co., in the meantime, filed a writ petition and challenged the validity of Rule 155-A of the Motor Vehicle Rules of the State and obtained a stay of the hearing of the matter which was pending before the Regional Transport Authority. A draft scheme for the route from Mettur to Kallakurichi via Omalur and Salem was published on June 4, 1976, and it formed a sector of the Salem-Krishnagiri route. The validity of aforesaid Rule 155-A was finally upheld by the High Court on June 29, 1976. It, therefore, dismissed the writ petition and directed the Regional Transport Authority to dispose of the pending application for renewal within a month. The Regional Transport Authority rejected that application on October 30, 1976, and granted a permit to the present appellant. The State Transport Appellate Tribunal confirmed that order. The matter was taken to the High Court in revision and that led to the

passing of the impugned judgment.

5. The facts are, therefore, quite simple. There is no controversy about them, and they are sufficient for the disposal of the present appeals by special leave.

6. It is not disputed before us that the section applicable to the controversy is Section 68-F of the Act. The High Court, in fact, not only decided the revision petitions with reference to that section but rightly took the view that the controversy before it fell within the purview of sub-section (1-D) thereof. It, however, held on a reading of this Court's decision in *Cheran Transport Co. Ltd. v. Kanan Lorry Service* ((1977) 2 SCR 389 : (1977) 1 SCC 604 : AIR 1977 SC 1564), that the case fell within the purview of the so called "rider" to proposition 2 set out in that judgment with reference to the proviso to sub-section (1-D) of Section 68-F of the Act.

The sub-section reads as follows :

Save as otherwise provided in sub-section (1-A) or sub-section (1-C), 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 of 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 sub-section (3) of Section 68-D.

It is not in controversy that sub-section (1-A) or sub-section (1-C) of Section 68-F are not applicable to the controversy. The rest of sub-section (1-D) provides that 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 any approved or modified scheme, in favour of any person in relation to an area or route or portion thereof covered by that scheme.

7. As has been stated, a draft scheme of road transport service of the appellant Corporation was published on June 4, 1976, under Section 68-C of the Act, and, as has been mentioned, that scheme overlapped a section of the Salem-Krishnagiri route. It follows, therefore, that by virtue of the clear provision of sub-section (1-D) of Section 68-F of the Act, no permit could be granted or renewed during the period intervening between the date of publication of the aforesaid scheme under Section 68-C, that is, after June 4, 1976, and the date of publication of the approved or modified scheme, in favour of any person for any class of road transport service. The High Court, therefore, clearly went wrong in thinking that the case fell within the purview of the proviso to sub-section (1-D) and it consequently erred in taking into consideration the so called rider to proposition 2 mentioned in this Court's judgment in *Cheran case* ((1977) 2 SCR 389 : (1977) 1 SCC 604 : AIR 1977 SC 1564). The proviso would have been applicable only if the period of operation of the permit of the respondents had expired after the publication of the scheme prepared under Section 68-C; but that was not so in this case. It has also to be remembered that in this case it was the respondent (private operator) who filed a fruitless writ petition and prevented the disposal of the renewal application for a long time by obtaining a stay order. On a plain reading of sub-section (1-D) of Section 68-F of the Act, we have, therefore, no hesitation in allowing the appeals with costs. We may, however, add that if no

approved or modified scheme has been published so far, the proper course for the Regional Transport Authority would be to keep the three renewal applications pending and not to treat them as dismissed. The stay orders are vacated.

</html