

M/s. Taxi Owners United Transport

Vs

State Transport Authority (Orissa)

Civil Appeals Nos. 716-718 of 1978

(D.A. Desai, R.B. Misra JJ)

18.01.1983

JUDGMENT

R. B. MISRA, J. –

1. These connected appeals by special leave are directed against the judgment of the High Court of Orissa dated April 14, 1977 dismissing the writ petition filed by the appellant against the order of the State Transport Appellate Tribunal.
2. The appellant was issued three particular stage carriage permits in respect of three vehicles authorising him to ply the said vehicles on the specified routes within the district of Koraput in the State of Orissa. In all the three cases the route terminated at a point near the border between the State of Orissa and Madhya Pradesh. The appellant, however, without applying for extension of his permits or for fresh inter-State permits from the State Transport Authority, Orissa started plying his vehicles to different points in the State of Madhya Pradesh. The appellant was covering distance of 44 kms., 21 kms. and 44 kms. respectively in the State of Madhya Pradesh. When this case came to the knowledge of the Regional Transport Authority, Koraput, it issued notices to the appellant to discontinue plying of vehicles covered under the permits on inter-State routes in Madhya Pradesh failing which the permits would be cancelled.
3. The stand of the appellant was that he was plying his vehicles on the authority of the P.St.S. permits granted by the Regional Transport Authority, Raipur in the State of Madhya Pradesh and hence he has not violated any condition of the permits or any provision of the Motor Vehicles Act. The appellant filed appeals before the State Transport Appellate Tribunal, Orissa against the aforesaid order. The appeals were, however, dismissed as not maintainable inasmuch as the impugned order neither amounted to revocation of permits nor attachment of a condition to the permits granted to the appellant within the meaning of any of the clauses of Section 64 of the Motor Vehicles Act. On merits also the Tribunal held that the use of the vehicles on inter-State routes in Madhya Pradesh region not being authorised by the permits, the Regional Transport Authority, Koraput was entitled under Section 60(1)(b) to cancel the permits granted by it.
4. The appellant sought to challenge the order of the Tribunal by filing a writ petition before the High Court of Orissa. The High Court, however, dismissed the petition on the ground that the case made out by the appellant did not come within the purview of Article 226(1) of the Constitution and consequently, the writ petition had abated pursuant so Section 58 of the Constitution (Forty-second Amendment) Act. The High Court upheld the view of the Tribunal that the order of the Regional Transport Authority, Koraput in no manner amounted to changing the conditions of the permits or adding a new condition therein. It further held that the cause of action would arise to the appellant

only after cancellation of the permits.

5. The appellant has not come to this court by special leave.

6. A preliminary objection has been raised by the counsel for the respondent that the permits having already expired, the appeals have become infructuous. We find considerable force in this objection. The appeals can be dismissed on this ground alone. The learned counsel for the appellant, however, contended that he had been running the vehicles in Madhya Pradesh region on the strength of a permit granted by the Transport Authority of that region and thus he has not violated any condition of the permits issued by the Regional Transport Authority, Koraput and the proposed action of the Regional Transport Authority to cancel the permits cannot be sustained. We find no force in this contention. The permits had been granted by the Regional Transport Authority, Koraput, Orissa to the appellant for use of particular vehicles only on the routes in Orissa and, therefore, use of the vehicles across Orissa borders on inter-State routes without their being authorised under the conditions of the permits is against law. Such user not only violated the conditions of the permits but was also a subterfuge in not obtaining the inter-State permits which the State Transport Authority in Orissa alone was competent to grant. The plying of the vehicles on the basis of permits granted by the Orissa Regional Transport Authority, Koraput in Madhya Pradesh would contravene the mandatory provisions of Section 45 of the Motor Vehicles Act. The appellant could not ply his vehicles within the territory of Madhya Pradesh on inter-State routes on the strength of the permits granted by the Transport Authority of Madhya Pradesh either. What cannot be done directly cannot be permitted to be done indirectly, is a well-recognised principle of law.

7. For the reasons indicated above, the appeals must fail. They are accordingly dismissed with no order as to costs.

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