

Joint Council of Bus Syndicate and others

Vs

Union of India and others

Transfer Cases Nos. 39-64 of 1990

(CJI Ranganath Misra, Kuldip Singh JJ)

14.08.1991

ORDER

1. Several writ applications had been filed in different High Courts by operators of stage carriages, mini buses, auto rickshaws and goods carriers. For convenient disposal, these cases were transferred to this Court under Art. 139A of the Constitution on petitions filed by parties and on transfer these have been registered as transferred cases.

2. Though there was a writ petition in the Calcutta High Court on behalf of the auto rickshaw owners and is numbered as Transfer Case No. 48 of 1990 in this Court, we find that there has been no escalation in the insurance tariff in regard to auto rickshaws. At the hearing no one has appeared to support the petition. We accordingly dismiss the petition as being without any cause of action.

2A. The remaining petitions can be divided into three categories; one by operators of passenger buses, the second by taxi operators and the last by goods vehicle operators. Challenge before us is three-fold : (1) the statutory Committee contemplated under the Insurance Act has not been properly constituted; (2) There has been no opportunity given to the affected parties to represent their stand and steps taken are not warranted; and (3) There is violation of Art. 19(1)(g) of the Constitution.

3. Mr. Baig appearing for the Tariff Advisory Committee has pointed out to us that the first point had not been raised in the writ petitions. The way counsel for the petitioners have placed their contention it appears to us that it is essentially on the construction of the statutory provisions and no reference to facts is warranted. We have, therefore, not considered it to be appropriate to take a technical view to reject the contention.

4. When these causes were heard yesterday, we adjourned the matters till this morning to have a look at the rates of increase in the tariff. We have taken into consideration the different documents which have been placed before us. It is not disputed that there is justification for increase. What the petitioners have mainly been objecting to is the extent of the escalation. From the counteraffidavit of the Committee we find that investigation had been made and the matter had been referred to an expert body of surveyors by name Operation Research Group and on the result of the exercise made by them, the extent of escalation has been determined. From the stand taken by Mr. Baig we gather the impression that hearing to the operators in the manner claimed is not intended by the statute and, therefore, the contention that petitioners had not been heard is not sound and tenable.

5. Counsel for the petitioners were told by us in course of the hearing that the escalation is a burden which is passed on to the commuters or the users of the goods vehicles and, therefore, the hike in the tariff does not really affect the business so as to violate Art. 19(1) (g) of the Constitution.

6. Mr. Reddy for the mini bus operators pointed out that even if this incident is passed on and ultimately borne by the commuters, the fact that there is a general hike of a steep nature has an ultimate adverse effect on the trade by dissuading commuters from availing the services of mini buses. There may be some substance in the contention but we do not think we should go into this aspect in the present matter.

7. After hearing counsel for the different parties we have, however, come to the conclusion that whether directly required by statute or not, it is appropriate that the parties who are affected by the escalation of the tariff rate should be given a hearing. We agree that such a hearing cannot be personal in regard to every one in the field. That would be a physical impossibility. Therefore, on zonal basis representations should be received and existing representations also could be taken into consideration and group wise hearing should be afforded at all States' or Union Territory Headquarters. The Tariff Advisory Committee may have sittings at these places and where the Headquarters of a State or Union Territory or two States are either at the same place or nearabout, they could be joined up one set of hearing. We; however, do not disturb the escalation already adopted. In case after such a hearing is granted, Committee is satisfied that alterations are warranted, appropriate reduction of the tariff should be undertaken. We make it clear that the tariff as a result of this exercise would not permitted to be enhanced. The exact "procedure of hearing in terms of our direction we do not intend to prescribe but we leave it open to the Committee to adopt a fair way of nearing the parties and we hope and trust that a fair and reasonable hearing would be extended to the parties or such of them who appear on such occasion or occasions. The Committee may break itself into groups for convenience of movement and quick disposal of the matter. After the hearing is over at the different centres, the entire Committee should meet and take its decision after appropriate deliberations.

8. The cases are accordingly disposed of there will be no order as to costs.

Order accordingly.

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