

# **MYSORE HIGH COURT**

S.T. Mallasattappa

Vs

Chairman, Regional Transport Authority

Writ Petn. No. 382 of 1958

(S.R. Das Gupta, C.J. and A. Narayana Pai, J.)

21.11.1958

## **JUDGMENT**

### **S.R. Das Gupta, C.J.**

1. This petition is directed against a temporary permit granted by the Regional Transport Authority on 23-9-1958. The 3rd respondent was running his bus under a permit obtained for that purpose in the route between Bangalore and Tumkur. Since 1952 he had given up operating on the said route and his permit expired by efflux of time without renewal. In the year 1957 he applied that he should be permitted to resume operation of his service in the same route. That application was made to the Regional Transport Authority. On 10-6-1958 he made an application for grant of a temporary permit pending the consideration of his said application.

The Regional Transport Authority granted a temporary permit in his favor on 14-6-1958. Thereafter on 18-9-1958 his original application which was made in the year 1957 for permission to resume the operation of his bus service in the said route, came up for consideration by the Regional Transport Authority. The said Authority held that this prayer of the said respondent really amounts to renewal of his expired permit and it refused the same. The Regional Transport Authority however observed in its said order that in the interests of the travelling public the Secretary R.T.A. is authorized to grant a temporary permit for a period of four months under Section 62 of the Motor Vehicles Act. The petitioner, before us, who also is plying his bus in the said route, has filed the present petition challenging the grant of the said temporary permit.

2. It was contended before us on behalf of the petitioner that such successive grants cannot be made under Section 62 of the Motor Vehicles Act by the Regional Transport Authority. It was also contended that the reason given in the order of the Regional Transport Authority for granting such temporary permit is not one of the reasons mentioned in the said section. In my opinion, it is not necessary to consider the first part of the petitioner's contention, inasmuch as he is entitled

to succeed on the second. Section 62 of the Motor Vehicles Act provides as follows :

"The Regional Transport Authority may, without following the procedure laid down in Section 57, grant permits, to be effective for a limited period not in any case to exceed four months to authorise the use of a transport vehicle temporarily-

- (a) for the convenience of passengers on special occasions, such as to and from fairs and religious gatherings, or
- (b) for the purpose of a seasonal business, or
- (c) to meet particular temporary need, or
- (d) pending decision of an application for the renewal of a permit.....,"

The rest of the provisions of the said section need not be referred to for the present purpose. It should be mentioned that Clause (d) of the said section was incorporated therein by an amendment of the said Act made in the year 1956. The question which has to be decided is whether or not the reason which has been given by the Regional Transport Authority for granting the said permit falls within any one of the clauses of the said section. If it does not, then the Regional Transport Authority must be held to have acted without jurisdiction.

3. It was strenuously urged before us by the learned advocate for respondent 3 that the reason given by the Regional Transport Authority falls under Clause (c) of the said section which is to meet a particular temporary need. The way in which the learned advocate put forth his contention is as follows : A permanent permit had already been granted to his client. That fact indicates that there was a permanent necessity for the said route. But his client having failed to continue his bus service there arose a necessity which, according to him, was a temporary one, for giving a permit to run buses on the said route until a final arrangement is made for giving a permanent permit in respect of the said route. In other words, the contention of the learned advocate was that a necessity arose, which was a temporary necessity, to allow buses to run in the said route until a final permit is granted in respect of the said route. This, he contended, was the particular temporary need for which the permit was granted. In my opinion, this contention cannot be accepted as sound. In the first place, the Regional Transport Authority does not state this to be the reason for which it granted the said permit. All that it states is that in the interests of the general public this has to be granted. In the second view, this ground cannot be said to fall within Sub-clause (c) of Section 62. Sub-clause (c) of Section 62 provides that a temporary permit can be granted to meet a particular temporary need. The need, which is mentioned by the learned advocate for respondent 3, is really a permanent need to have a permanent bus service in the said route. No doubt in cases covered by Section 62(d), i.e., where an application for renewal of a permit is pending a temporary permit can be granted but those are the only cases where such temporary permits can be granted although there is a permanent need for a permit. In such cases, i.e., cases covered by Section 62(d) temporary permits may be granted not because there is a particular temporary need as contemplated in Section 62(c) but because Clause (d) of the said section makes a special provision for the same. In cases like the one which is now before us,

where no application for renewal of a permit is pending and which therefore do not come within the purview of Section 62(d), no temporary permit can be given.

4. The result of the learned Advocate's contention would be to allow an additional ground to be added to Section 62 of the said Act.

5. The learned advocate placed before us a decision of this Court in W.P. No. 17 of 1958 (Mys). That case is, in my opinion, clearly distinguishable from the present case. In that case, an application for a permit was pending before the State Transport Authority. The State Transport Authority, as was found by their Lordships had come to the conclusion that increased traffic needs of the road justified the issue of additional permit or permits. In those circumstances, a temporary permit was granted and their Lordships came to the conclusion that the necessity in question came within the purview of Section 62(c) of the said Act. It would be seen from the facts of that case that there was a pending application but in the present case there is no such pending application. The application which was made by the respondent in this case had already been disposed of. This fact, in my opinion, distinguishes that case from the present one. It should also be mentioned that the said decision, on which the learned advocate relies, was given prior to the amendment of Section 62 of the Motor Vehicles Act, whereby an additional clause being Clause (d), was added to the said section. In my opinion, no assistance can be obtained from that decision by the respondent in this case.

6. In the result, therefore, we hold that the Authority concerned acted without jurisdiction in granting the said permit and the same should be quashed and we make an order accordingly. The petitioner is entitled to costs of this petition, (Advocate's fee certified to be ₹ 100).

**A. Narayana Pai, J.**

7. I agree.

Order accordingly.