

Karnataka State Road Transport ... vs Secretary, Karnataka State Transport ... on 13 February, 1987

Equivalent citations: AIR1987SC714, JT1987(1)SC422, 1987(1)SCALE358, 1987SUPP(1)SCC728, 1987(1)UJ371(SC), AIR 1987 SUPREME COURT 714, 1987 SCC (SUPP) 728, 1987 (1) UJ (SC) 371, 1987 UJ(SC) 1 371, (1987) 1 JT 422 (SC), (1987) 1 SUPREME 255

Bench: R.S. Pathak, B.C. Ray, Ranganath Misra

JUDGMENT

C.J. Ranganath Misra, J.

1. Both these appeals by special leave are against a common order of the Division Bench of the Karnataka High Court upholding the judgment of a learned single Judge in two writ petitions.
2. The short facts which led to filing of the two writ petitions in the High Court are these :

The State Government of Karnataka framed a scheme under Chapter IV-A of the Motor Vehicles Act, 1939, covering 89 intra-State routes commonly known as Kolar Pocket Scheme. It was modified from time to time but the scheme as last modified in January 1980 was in force when the dispute now under consideration arose. On 1.9.1975 an inter-State agreement between the States of Karnataka and Andhra Pradesh had been entered into in respect of the Bangalore (in Karnataka)Punganoor (in Andhra Pradesh) route which contemplated the running of one bus in the minimum and two at the most on the route. Around December 1980 Respondent No. 2 applied for grant of a temporary permit under Section 62 (1)(c) of the Act. The State Transport Authority rejected the application by saying that as a part of the route over which the permit was asked for covered a route under the Kolar Pocket Scheme a temporary permit on that route could not be granted. Later the State Transport Undertaking made an application for grant of a similar temporary permit to which objection was raised by the Respondent No. 2. Overruling the objection and relying upon the provision of Section 68-FF of the Act the Transport Authority granted the temporary permit asked for. The rejection of the application of the respondent and the grant of the permit to the appellant became the subject-matter of the two writ petitions before the High Court.

3. A learned single Judge of the High Court, after hearing the parties' allowed the two writ petitions, set aside the order granting the permit in favour of the State Transport Undertaking, appellant

herein, and directed that a temporary permit be granted to the respondent No. 2 until a permanent permit was granted for the route or for a four months period whichever is later. The Division Bench having upheld the order of the learned single Judge these appeals have been carried after obtaining special leave.

4. The Kolar Pocket Scheme is in regard to the Intra-State routes There is no dispute that a part of the inter-State route is covered by the notified routes under the Scheme. Appellant's counsel has placed reliance on the Constitution Bench judgment in *Adarsh Travels Bus Service and Anr v. State of U.P. and Ors.*, in support of his contention that where the route covered by the scheme overlaps any route, no permit to private operators could be granted. Section 68-FF of 'the Act provides :

Where a scheme has been published under Sub-section (3) of Section 68-D in respect of any notified area or notified route the State Transport Authority or the Regional Transport Authority, as the case may be, shall not grant any permit except in accordance with the provisions of the scheme :

xxx xxx xxx In view of the admitted position that the intra-State route covered under the Scheme and the inter-State route in question overlap for a major portion, the principle indicated in Section 68 FF as accepted by the Constitution Bench judgment would bar the grant of a permit unless it is in accordance with law and the provisions of the Scheme. We find from the Scheme that it saves the existing permits on the inter-State routes subject to corridor restrictions. Admittedly the temporary permit obtained by the Respondent No. 2 was not an existing permit when the revised scheme came into force in 1980. Therefore, it would not be saved by the provision in the scheme and the grant of a temporary permit would not be in accordance with the statutory requirements of Section 68-FF. The High Court went wrong in directing grant of a temporary permit to the respondent but the temporary permit that was granted by the High Court has long lapsed. We are told that as no permanent permit has been granted on the route, respondent has still been plying under different temporary permits obtained from the Transport Authority. The appellant-Undertaking has, therefore, seriously pressed before us that the position could be clarified and the Transport Authority could not be allowed to grant any further temporary permits to the respondent No. 2. If there be really any need on the inter-State route, the appellant is prepared to cater to the demand by plying vehicles on the inter-State route after obtaining temporary permit.

5. From the material on record it transpires that there is need for extra service on the inter-State route. The State Governments are not before us and, therefore, no direction as such can be given but we hope that the State Governments would take necessary steps to provide for additional service on the inter-State route by modifying the scheme and taking steps to ensure grant of permits in accordance with law. The State Transport Authority may issue such temporary permits as may be justified keeping the law in view.

6. We find that learned single Judge gave the following directions :

In view of the foregoing reasons, these writ petitions are allowed with costs. Rules are made absolute and the Order No. STA :6: TP: 11/81-82 passed by Respondent 1 on 19-1-1982 (Annexure D in Writ Petition No. 40614/82) rejecting the application made by the petitioner for grant of temporary permit on the inter-State route from Bangalore to Punganoor and back and Order No. STA :6: TP: 43/82 dated 21-1-1983 passed by Respondent 1 holding that Respondent 2 is to be issued a temporary stage carriage permit for the inter-State route Bangalore to Punganur and back, and the permit dated 21-1-1983 issued by respondent 1 to respondent 2 are quashed. The STA and respondent 1 are directed to issue temporary stage carriage permit, which will ensure until the grant of pucca permit or for four months from the date of issue of the temporary permit whichever is later, in favour of the petitioner, on the inter-Slate route Bangalore to Punganoor and back, with a condition that no passenger shall be picked up or set down on the route between Bangalore and Mulbgal, assigning the timings as prayed for by the petitioner, within one week from the date of the receipt of copy of this order.

A temporary permit could not be granted beyond four months, therefore, the direction that a temporary stage carriage permit granted to the respondent No. 2 would enure until the grant of a permanent permit was not valid. The permit granted under the directions of the High Court must be taken to have already lapsed. If any permit has been granted in favour of the respondent No. 2 under the impugned directions of the High Court which if in force shall stand vacated after two weeks from today unless it has lapsed before that period.

7. We allow the appeal and alter the impugned order by directing that the temporary permit which was granted in favour of the respondent No. 2 by the High Court was to continue for a total period of a temporary permit, it is open to the Transport Authority to dispose of the same in accordance with law. Parties will bear their own costs.