

Supreme Court of India

Ex-Servicemen Transport ... vs Union Of India (Uoi) And Ors. on 30 March, 1993

Equivalent citations: JT 1993 (3) SC 587, 1993 (2) SCALE 555, (1993) 3 SCC 303

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Bench: K Singh, V Ramaswamy, N Kasliwal

JUDGMENT Kuldeep Singh, J.

1. These petitions under Article 32 of the Constitution of India have been filed on behalf of 97 Ex-Servicemen. The petitioners were self-employed with the help of Director General Resettlement (DGR), Ministry of Defence, Government of India, in the business of motor-transport. They were given the facility of concessional demand loans by the respondent-banks for the purchase of buses. The Delhi Transport Corporation (DTC) offered them with routes to operate their buses. On their failure to repay the loan-installments the banks have instituted recovery suits against them in civil courts. The petitioners have sought the direction in these petitions to the respondents-banks to settle the loan-recoveries on payment of nominal interest and further that the DTC should refund the amount of royalty, fine-amount and the security charged from them. It is further prayed that the petitioners be compensated because the losses occurred by the petitioners in the motor transport business were due to the negligence on the part of the DGR and DTC.

2. The DGR is a department functioning under the Ministry of Defence, Government of India and is responsible for resettlement of ex-servicemen through employment in government service, public/private sector and self employment through industries, transportation, small scale business, etc. in the year 1974 the DGR approached the DTC to reserve some routes in the Union Territory of Delhi for the ex-servicemen. The DTC having agreed, the proposal was advertised through the newspapers and the ex-servicemen were asked to submit their applications. From amongst the applicants the petitioners were selected for the allotment of routes. The DGR assisted the petitioners in getting concessional-loans for the purchase of buses and further helped them in getting chassis on priority basis. The DTC allotted routes to the petitioners within the Union Territory of Delhi and hired their buses for plying on the said routes. Each of the petitioners entered into an agreement with the DTC which contained the terms and conditions of hiring the buses.

3. According to the petitioners the DGR and DTC jointly prepared a project called "Transport Resettlement Project" with the twin objects. It was sought to rehabilitate the petitioners and to enlist a cadre of ex-servicemen transport operators to help the DTC to run the public transport system in Delhi in a disciplined and efficient manner. The petitioners state that they were lured in the project and were made to sign contract with the DTC on the understanding that they would earn substantial income. It is further stated that thirty private limited companies were formed with the help of the chartered accountants appointed by the DGR. The petitioners had no option in the matter. Apart from the companies there were individuals who were also selected for the project. The petitioners complained that the routes allotted to them were such where no passengers were available and the traffic was almost nil. The routes were new and as such the transport facilities were inadequate resulting in greater wear and tear. According to the petitioners the project failed within one month of its start in March, 1975 and they incurred heavy losses. Since there was no income from the project the petitioners could not pay the loan instalments and as a consequence the banks filed

recovery suits against them. The petitioners further contend that the DTC deliberately changed the original administrative operational controlled charge basis of hiring the buses to a new scheme called kilometer scheme. According to the petitioners the kilometer scheme was detrimental to the interest of the petitioners and resulted in huge losses to them.

4. The DGR in its counter vehemently denied that any resettlement scheme was formulated in collaboration with DTC. According to the DGR whenever opportunities are found for the resettlement ex-servicemen they are informed about the same by way of advertisements in the newspapers. In this case also the opportunity available in the form of transportation-business under DTC was brought to the notice of the ex-servicemen through newspapers and those who were willing to avail the opportunity were asked to submit their applications. In the counter affidavit it is further stated as under:

It may be pointed out that no scheme was forced on the ex-servicemen. It was entirely up to them to apply or not for running buses in the Union Territory of Delhi the DGR assisted the ex-servicemen by way of getting them cheap loans without proper sureties and obtaining chassis on priority basis. It is, however, surprising to note that the ex-servicemen report financial losses in spite of having advantage of cheap loans. In fact they were in a better position to make profits by running buses than other civilian citizens of the venture.

5. The petitioners approached the DGR with economic feasibility reports prepared and signed by them for obtaining loan. The loan applications were forwarded by the DGR to the banks for advancing loans to them on liberal terms. It is further averred as under:

The DGR did not make any commitment regarding the economic viability of the project. I further say that the ex-servicemen were indicated the routes in advance, they themselves surveyed the same and gave a certificate individually to the DGR that the route was economical.

6. In the counter affidavits filed by the respondents-banks it is stated that the relationship between the petitioners and the banks is purely contractual - voluntarily entered into by the petitioners - with full knowledge and understanding of their individual contractual obligation and duty to repay the loan amount with interest at the agreed rate. It is stated that there was no obligation on the banks in the nature of public duty to part with public money to the petitioners. The loan granted to them was purely on contractual basis after considering the individual merits of the case. Regarding the terms of the loan granted to the petitioners it is stated as under-

The said demand loan was granted to the above named borrowers in the priority sector under the scheme of Resettlement of Ex-servicemen as identified by Reserve Bank of India under the I.D.B.I. financing scheme and covered under the Credit Guarantee Corporation of India at a concessional rate of interest and reduced margin money of only 10% as against a minimum of 25% in ordinary cases. Even the repayment of the said loan was to be made by way of 51 easy monthly instalment as against the maximum permissible instalment repayment in 36 months in ordinary cases.

The Deputy Traffic Manager in the counter affidavit filed by him on behalf DTC has stated that the hiring of the buses belonging to the petitioners was governed by the terms and conditions contained in the hiring agreement. The hiring agreements were entered into from time to time on yearly basis. The agreement provided for termination of contract by giving one month's notice on either side. There is an arbitration clause in the agreement to the effect that in the event of any dispute the same shall be referred for the decision of the General Manager has been further stated that the routes granted to the petitioners were good and economical whenever any request for change of route was made the same was considered sympathetically and the routes were even changed. It was denied that the high rate of royalty was charged or that the fines were recovered in an arbitrary manner. The administrative and operational charges were reduced to 50%.

7. We have carefully gone through the pleadings of the parties and have examined other material on the record. The petitioners, voluntarily, accepted the opportunity offered to them by the DGR and DTC. The DGR in its normal course of functioning persuaded DTC to offer some of the routes to the ex-servicemen. The DGR helped the petitioners in getting loans from the banks on concessional basis and also the bus-chassis on priority basis. There is nothing on the record to show that the DGR, the DTC or the bank acted to the prejudice of the petitioners in any manner. Rather all the three institutions helped the petitioners in the setting up of the transport-business.

8. We have heard learned Counsel for the petitioners. We have also gone through the written arguments submitted by the learned Counsel for the petitioners. No point - much less a law point - has been made out for our consideration.

9. learned Counsel for the petitioners has argued that the banks be directed to charge 4% interest sterling from two years after the disbursement of loans. According to him several banks like Canara bank, Punjab and Sind bank and State Bank of Patiala have already settled the disputes by giving similar concessions to some of the petitioners. We see no ground to issue any such directions to the respondents-banks. Most of the petitioners are retired Army Officers with the rank of Major and Lt. Colonel. They entered into loan agreements with the banks voluntarily and with open eyes. The petitioners must fulfill their legal obligations in accordance with law.

10. We have no material before us to show that the banks have settled the disputes in respect of some of the petitioners as stated by the learned Counsel. If that be so then the remaining petitioners may, if so advised, approach the respective banks for similar treatment.

11. So far as the DTC is concerned, we are satisfied that the royalty, security and fines recovered from the petitioners have been done strictly in accordance with the terms and conditions contained in the hiring agreements.

12. We see no merit in these petitions and as such the same are dismissed. No costs.