SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Malik Ram and ors. Vs. Regional Transport Authority Jaipur and ors.

Malik Ram and ors. Vs. Regional Transport Authority Jaipur and ors.

SooperKanoon Citation : sooperkanoon.com/752525

Court : Rajasthan

Decided On : May-26-1960

Reported in : AIR1961Raj130

Judge : L.N. Chhangani, J.

Acts : Constitution of India - Article 226; Motor Vehicles Act, 1939 - Sections 47(1) and 62

Appeal No. : Civil Misc. Writ Petn. Nos. 83, 122, 123, 125, 126, 128, 134 and 143 of 1960

Appellant : Malik Ram and ors.

Respondent : Regional Transport Authority Jaipur and ors.

Advocate for Def. : R.K. Rastogi, Adv. for Non-Petitioners Nos. 2, 4 and 21 (in case No. 83); B.C. Chatterjee, Assistant

Advocate for Pet/Ap. : M.M. Vyas and; C.C. Agarwal, Advs. for; Malik Ram, A

Judgement :
ORDER

L.N. Chhangani, J.

1. Writ petitions Nos. 83, 122, 123, 125, 126, 128, 134 and 143 of 1960 were argued and heard together. The facts and circumstances out of which the writ applications excepting 83 of 1960 arise are more or less similar though not identical, and they all raise common questions of law. Writ No. 83 of 1960 is based upon different facts and grounds but it was represented that the decision of other writ applications will have a substantial bearing upon the decision of this writ case and therefore it was also heard along with these writ applications,

2. It will be sufficient to state the facts generally for the purpose of determining the common questions of law raised during the course of hearing. The various writ petitioners are carrying on transport business and are bus operators on routes Jaipur-Bharatpur, Jaipur-Kotputli, Jaipur-Alwar and Jaipur-Kishangiarh Alwar Delhi. They had been granted non-temporary permits for plying their buses on the various routes and these permits were to expire on or about the 31st October, 1959.

Before the expiry of the terms of the permits, the petitioners put in applications for renewal in the prescribed manner and within the prescribed time. The applications for renewal were duly published in the Government Gazette (it is unnecessary to mention the dates of publication). It may be mentioned that there were also (applications by other persons for grant of non-temporary permits. They were also duly published.

The applications for renewal as well as fresh applications for non-temporary permits could not be disposed of till October 31st 1959. The various persons including the petitioners who had applied for renewal of the permits were however granted temporary permits under Section 62(d) of the Motor Vehicles Act pending the consideration of their applications for renewal. These temporary permits were valid upto the 31st January, 1960.

Decisions on the applications for renewal as well as for fresh permits could not be taken even up to this date and in the interests of the traffic, the Regional Transport Authority issued certificates to the various persons whose renewal applications were pending for consideration certifying that their applications for renewal were under consideration.

These certificates were presumably intended and were actually relied upon for the purpose of plying buses as a temporary measure till the decisions of the applications for renewal by the R. T. A. All these applications came up for hearing before the Regional Transport Authority on the 26th and 27th, February, 1960. The Regional Transport Authority rejected all applications for renewal as well as for fresh permits. The grounds on which the applications were rejected may be stated in the words of the Regional Transport Authority as follows :-

'This authority has information that Rajasthan Roadways Buses are intended to operate on this route in the near future. An application for renewal is tantamount to a fresh application for a permit, according to Sub-section (2) of Section 58 of the Motor Vehicles Act. This authority can take notice of the likelihood of running of State Roadways on this route under Section 47-C of the Motor Vehicles Act. The running of State Roadways buses will be beneficial to the travelling public ..... Resolvedthat on account of the reasons mentioned above, the under-mentioned applications for renewal as well as for fresh permits be and are hereby rejected.'

Simultaneously, the Regional Transport Authority thought it proper to make some arrangements for the traffic, and, therefore, decided to grant temporary permits to the applicants for renewal. These temporary permits were granted for a period of four months subject to the conditions that the permits will be ineffective since the date the Rajasthan State Roadways buses began to operate on this route. This is the form of the orders passed in connection with the various routes.

3. The petitioners feel aggrieved by the resolutions of the Regional Transport Authority Jaipur rejecting their applications for renewal and have approached this Court under Article 226 of the Constitution and pray that a writ of Certiorari be issued quashing these resolutions. It is further prayed that the temporary permits granted to them should be treated as permits having been renewed for a period between 3 to 5 years land a direction be issued to the Regional Transport Authority to treat them as renewed permits and to decide the period between 3 to 5 years for which they should be considered valid. In the alternative it is prayed that a Mandamus should be issued to the Regional Transport Authority for fresh disposal of the applications after satisfying the principles of natural justice. The

grounds on which these prayers have been made may now be briefly indicated.

4. It has been contended that the Regional Transport Authority could not have rejected the applications for renewal on the ground of the pendency of a scheme of nationalisation before the State Transport Undertaking working in the name and style of Rajasthan Roadways, much less on the basis of a contemplated scheme of nationalisation. In this connection reliance was placed upon the proper interpretation of the words 'likely to operate in the near future'.

Secondly, it was contended that the Regional Transport Authority did not apprise the various bus operators of the information that was available with the authority in connection with the scheme for nationalisation. It was kept as a guarded secret. The petitioners were given no opportunity to explain their view-point in connection with the schemes of nationalisation. Thirdly, that no temporary permits could be granted for meeting a need which is of a permanent nature.

5. It appears that the petitioners were conscious of the fact that the resolutions of the Regional Transport Authority were appealable to the appellate Authority, and, therefore, in order to meet the possible argument that this Court should not entertain writ applications on the basis of an alternative remedy being available to the petitioners, the petitioners justify their approach to this Court on the grounds which may be stated as follows:-

The Chairman of the Appellate Authority the Transport Minister, the other two members, one being the Director and the other being the Legal Remembrancer, are disqualified from entertaining and hearing appeals on the ground of bias. It was alleged that the Transport Minister is controlling the port-folio of Transport Department and is the Chairman of the Nationalisation Committee.

The Director of the Transport Department, one of the members of the Appellate Authority appears to have taken a good deal of part in connection with the preparation of the nationalisation scheme. He is also stated to have issued a circular letter to the various Regional Transport Authorities requiring them to postpone the considerations of the renewal applications.

The State Transport Authority also had resolved on the 24th June, 1958, vide resolution No. 4 directing the Regional Transport Authorities to postpone the consideration of some routes. It was done in connection with a policy of nationalisation and the Legal Remembrancer being the Chairman of the State Transport Authority is bound to be prejudicial by such a resolution.

6. The applications have been strongly opposed by the State and the Regional Transport Authority, and in the first instance, the preliminary point has been pressed for a serious consideration. The issue of the circular letter by the director and the resolution, by the State Transport Authority are not disputed. Some kind of interest of members has also not been disputed.

It has, however, been argued that these authorities are not so much interested that they will not be in a position to objectively consider and decide the appeals. Learned counsel for the parties cited a number of cases on the two connected points viz., (a) the weight to be, given to the existence of an alternative remedy in entertaining or refusing to entertain writs, and (b) considerations governing the determination of bias particularly with reference to cases under the Motor Vehicles Act.

The petitioners rely upon Firm Murlidhar Brijmohan v. State of Rajasthan, ILR (1957) 7 Raj 723, Nageswara Rao v. A. P. S. R. T. Corporation, AIR 1959 SC 308, Mahboob Sheriff and Sons v. Mysore S. T. Authority, AIR 1960 SC 321 and Govindarajanv. Regn. Inspector, M. C. and L. Boards, AIR 1960 Mad 238. It will be unnecessary to notice and discuss all these cases. It can be safely said that the law on the first point is more or less settled and may be stated as follows: The existence of an alternative remedy is no doubt one point to be considered whether a writ application should be entertained or not.

But it does not affect the jurisdiction of this Court to entertain such applications even though, there may be available to the petitioner an alternative remedy keeping in view the special circum-stances.

7. In ILR (1957) 7 Raj 723 where the Sales Tax Commissioner who was not only the departmental head, but also the revising authority and final quasi-judicial

authority under Section 14(2) of the Sales Tax Act, issued a confidential circular to Sales Tax Officers, who were the assessing authorities saying that ground-nut oil is not an edible oil and should be taxed, it was held that in the circumstances it would really be a farce for any assessee to go to the appellate authority or the revising authority, and intervention under Article 226 was justified.

8. To me it appears, the proper approach in such case is not to decide whether the appellate authority will or will not objectively and -dispassionately determine the appeals, but to determine whether there are reasonable grounds for inferring a bias justifying a reasonable apprehension that they will not secure a fair and objective determination of their appeals.

It will be useful to quote the observations of the Supreme Court in Mineral Development Ltd. v. State of Bihar, AIR 1960 SC 468 dealing with the principles governing the doctrine of bias vis-a-vis judicial tribunals and their applicability to quasi-judicial tribunals and authorities and treating reasonable suspicions of bias as sufficient :-

'The principles governing the 'doctrine of bias' vis-a-vis judicial tribunals are well-settled and they are: (i) no man shall be a judge in his own cause; (ii) justice should not only be done but manifestly and undoubtedly seem to be done. The two maxims yield the result that if a member of a judicial body is 'subject to a bias (whether financial or other) in favour of, or against, any party to a dispute, or is in such a position that a bias must be assumed to exist, he ought not take part in the decision or sit on the tribunal'; and that 'any direct pecuniary interest, however small, in the subject-matter of inquiry will disqualify a judge, and any interest, though not pecuniary will have the same effect, if it is sufficiently substantial to create a reasonable suspicion of bias.' The said principles are equally applicable to authorities, though they are not courts of justice or judicial tribunals, who have to act judicially in deciding the rights of others, i.e., authorities who are empowered to discharge quasi-judicial functions.'

In the present case the Director of Transport, one of the members of the Appellate Tribunal did take a substantial part in the preparation of the nationalisation scheme and issued the circular letter to the various Regional Transport Authorities

requiring the postponement of the consideration of renewal applications.

However, so far as the present Legal Remembrancer is concerned, he was not a Chairman of theState Transport Authority when the resolution No, 4 dated the 24th June, 1958, was passed, and I very much doubt that in the circumstances a bias can be imputed to him. Regarding the Transport Minister also the allegations relating to bias are rather too general.

However, it was pointed out during the course of arguments that the Transport Minister is disinclined to function as a Chairman of the Appellate Authority and that a change in the constitution of the Appellate Authority is in contemplation and rules have been published for bringing about the change. It is also significant that these writ applications were entertained by a Division Bench of this Court.

Further the Division Bench after hearing the writs for some time considered them as deserving urgent consideration and left a direction for their being put up before the Vacation Judge. As a Vacation Judge, I heard them at a considerable length. On considering all the circumstances cumulatively and without recording finding on the sufficiency of individual circumstances, I consider it hardly fair and proper to reject them on the preliminary point, and I have no hesitation in expressing the opinion that the circumstances of the case justify the hearing of the writ applications on merits in spite of the existence of an alternative remedy.

9. Dealing with the contentions on the merits, the first argument strongly pressed by Mr. Agrawal was that the pendency of a scheme for nationalisation does not and cannot justify the rejection of applications for renewal. It was argued that the application for renewal even being treated as applications for fresh permits can be rejected only on a definite finding that other services are likely to operate in the near future.

Commenting over the word 'likely' and relying upon some case law interpreting the word 'likely' in the Indian Penal Code, it was pointed out that there must be a greater probability of the introduction of the services in future and mere possibility should not be sufficient. It was further pointed out that the scheme for nationalisation to be prepared by a State Transport Undertaking has to be

published objections have to be invited and finally it has to be approved by the State Government.

Relying upon the majority opinion of AIR 1959 SC 308, it was contended that the Act of the State in considering the scheme for approval is a quasi-judicial act, and, the State Government is expected to take a decision on the consideration of the various objections that may be filed in connection with the scheme. There cannot, therefore, be any certainty that the scheme may be approved or not. In view of this uncertainty, it cannot be said that nationalised bus services are likely to operate in near future.

10. I have given my careful consideration to this argument and must confess that I have not been impressed by this general argument. It will be proper in this connection to mention some of the basic and fundamental considerations governing the administration of the provisions of the Motor Vehicles Act. The object of the Motor Vehicles Act is to secure a proper regulation and co-ordination of the traffic services and the main consideration is the public interests.

Before the Amendment Act of 1956, there were no provisions for the creation of State monopolies for transport services. Some of the States considered it necessary in the public interests to introduce the nationalisation of the transport services and they were faced with difficulties on account of the absence of necessary provisions in the Act, The States thereupon either thought to secure local amendments of the Act or considered the schemes of separate legislation.

In order to avoid these difficulties and in this background, the Amendment Act No. 100 of 1958 introduced Chapter IV-A dealing with the grant of monopoly permits to State Transport Undertaking. Simultaneously, an amendment was introduced in Section 47 also. Under Section 47(c) as it stood prior to the amendment only the adequacy of the existing services could be taken note of while considering the applications for permits or for renewal of permits.

The consideration of prospective services was not relevant. Section 47(1)(c) now provides for consideration of the adequacy of the prospective services also. An analysis of the various provisions of Chapter IV-A shows in the first instance that

under Section 68-C, where any State Transport undertaking is of opinion that for the purpose of providing an efficient, adequate, economical and properly co-ordinated road transport service, it is necessary in the public interest that such service should be run and operated by the State Transport Undertaking, it is sufficient to justify the preparation of the scheme.

Subjective formation of the opinion by the State Transport Undertaking is sufficient and it is not even necessary that this should be specifically mentioned while publishing the scheme, vide AIR 1960 SC 321. The objections to this scheme can also be only on tile ground of public interests and the law does not contemplate the consideration of the rights of the existing bus-operators.

This finds support both in the majority and minority opinion of the Supreme Court in AIR 1959 SC 308. It has also to be borne in mind that a State Transport Undertaking which is expected to prepare a scheme after studying the matter from all possible points of view can safely be presumed ordinarily to prepare a scheme keeping in view the public interests.

This presumption is borne out by the operation of the nationalisation schemes in other States. In these circumstances even though the act of the State in considering the scheme for approval may be a quasi-judicial one, it will be hardly fair to conclude that there cannot be any reasonable probability of a scheme for nationalisation being approved by the State Government.

In my opinion, it can be fairly presumed that the probability of a scheme prepared by a State Transport Undertaking being approved by a State Government and in case of a inter State route by the Central Government is substantial and there cannot be a great element of uncertainty so that it cannot be considered under Section 47 (1) (c). The argument based upon the words 'likely to operate' cannot be accepted.

11. It was next argued that the words 'in the near future' should also be considered in this connection. It was pointed out that rules have to be framed after pre-publication and the scheme can be prepared only after the rules are brought into effect after proper pre-publication. Thereafter objections have to be invited to the

scheme and considered. It was pointed out by Mr. Rastogi appearing for the sub-operators of Alwar Delhi route that the scheme prepared for such routes requiring a further approach of the Central Government will require an additional period.

This all is bound to take a good deal of time in these circumstances it cannot be assumed that the nationalised services are likely to operate in the near future. The question involved in the argument cannot in my opinion be answered in the abstract and many elements have to be considered in arriving at a judicial verdict on the point,

The stage of the scheme, the nature and the traffic requirements of the route, the availability of other transport services have all to be taken into consideration and, therefore, apart from a consideration of all these elements it cannot be accept-ed that the pendency of a scheme for nationalisation cannot be considered under Section 47 (1) (c) on account of the use of the words 'near future' in that section. For the purpose of general argument, I need not say anything more though in dealing with the particular arguments based upon the facts and circumstances of particular Cases the implications of the expression may justify varying conclusions.

12. Thus repelling the general contention of the counsel for the petitioners, I must hold that the transport authorities are quite competent to take into consideration while dealing with applications for permits or renewal of permits any scheme prepared or contemplated by a State Transport Undertaking under Section 47(1) (c), I further hold, this matter can also be considered under Section 47 (1) (a).

It will be useful in this connection to mention that in General M. B. S. Jaipur v. R. T. A. Jaipur, 1959 Raj LW 546: (AIR 1961 Raj 129), a Division Bench of this Court approved the action of the R. T. A. in refusing to publish applications for non-temporary permits for plying buses between Jaipur and Kotah on the basis of the resolution of the State Transport Authority dated the 24th June, 1958 requiring the Regional Transport Authority to postpone the consideration of grant of permits on the routes proposed to be nationalised. In this connection, the desirability of avoiding liability of the State to pay compensation to permit-holders on account of cancellation of permits on the introduction of nationalised services was specifically referred to.

13. I now Come to the second contention that the Regional Transport Authority has flagrantly violated the principles of natural justice in deciding the matter in the manner in which it did. It has been admitted that there were no formal objections lodged by the State Transport Undertaking in connection with the applications of the petitioners for renewal of their permits.

It is also not disputed that the petitioners were not apprised of the information which the Regional Transport Authority had before it regarding the scheme for nationalisation. The petitioners were given no opportunity to make their submission on the validity, desirability or otherwise of the scheme. The Regional Transport Authority did not even apply its mind to the fact as to whether any proceedings had been taken under Chapter IV-A in connection with the various routes.

I understand that so far as the Jaipur-Bharatpur route is concerned, the scheme has not even been published. With regard to the other route, the scheme has no doubt been published but there are no materials on record to indicate whether the Regional Transport Authority applied its judicial mind to the scheme at all. In this connection, I may usefully refer to the following observations made in Naib Transport (Pr) Ltd. v. S. N. Mukherjee, AIR 1959 Cal 447 :-

'the question of nationalisation of transport may properly be considered under the head 'interest of the public generally'. I think however that unless it is so considered, the mere fact that the Government has decided upon such a policy is wholly irrelevant. It is to be noticed that it is no body's case that the Government had decided to nationalise) Route No. 12-C within a fixed period of time nor was there any indication that Government was in a position to do so within any particular time.'

It was necessary for the Regional Transport Authority to have examined the details of the scheme and to consider the probable period from which the nationalised bus services could be expected to operate. This aspect has acquired further importance in view of the subsequent developments that have taken place. The rules, that were framed in connection with the scheme for routes excepting jaipur Bharatpur route have been declared by this Court vide its judgment dated the 10th

May, 1960, as ultra vires and invalid and with that the scheme has also fallen through.

It will be now necessary for the Government to frame fresh rules after pre-publication. The petitioners can legitimately argue that had they been apprised of the information relating to the scheme they could have raised all these points before the Regional Transport Authority.

On a very careful consideration of all the facts and the circumstances of the case, I have no hesitation in coming to the conclusion that the Regional Transport Authority did not observe the principles of natural justice in disposing the petitioners' applications for renewal of permits generally with a reference to the scheme for nationalisation, and its decisions are consequently vitiated and cannot be maintained.

14. This would have been sufficient for the disposal of the writ applications except No. 83/ 1960. However, a contention was made that the temporary permits granted to the petitioners should be treated as duly renewed permits valid at least for a period of three years. It becomes necessary to deal with this contention also. Reliance in this connection was placed upon the decision of the Supreme Court in AIR 1960 SC 321.

In that case, the Regional Transport Authority renewed the permits but limited the period to one year only. The Supreme Court held that a period of one year for renewal was against the provisions of law and could not be maintained. The Supreme Court accordingly treated the renewed permits as valid for a period between 3 to 5 years and directed the authority to determine the precise period between these limits.

The facts and circumstances of the present case are completely different. In the present case,the applications for fresh permits as well as the applications for renewal of the permits were categorically dismissed, and it is very difficult to presume that there was an intention to grant renewal of permits and only to limit the period.

The applications for renewal could not have been decided without considering the applications for fresh permits by other bus operators, A mention in the permit that it will be liable to expire even at an earlier date with the functioning of the Rajasthan Roadways also points out in the same direction. It is impossible to conclude that these temporary permits should be equated with renewed permits valid at least for a period of three years.

The main assumptions on which this argument was based were that it was not within the competence of the Regional Transport Authority to reject applications for renewal on the existence of a scheme of the nationalisation or in contemplationof such scheme and that the Regional Transport Authority could not have granted temporary permits, the real need being a permanent one.

So far as the first assumption is concerned, I have already concluded in an earlier part of the judgment that it is within the competence of the Regional Transport Authority to reject applications for renewal on the basis of a pending scheme of nationalisation. The second assumption also in my opinion is not well-founded.

15. This brings me to a consideration of Section 62(d) of the Motor Vehicles Act. Learnedcounsel have contended that under Section 62(d), a temporary permit cannot be granted to meet a permanent need and it was argued that on the various routes there is a subsisting permanent need and the Regional Transport Authority therefore could not have granted temporary permits. Reliance was placed upon Balagangadharan v. R. T. Board, AIR 1958 Kerala 144. This question was considered by this Court in Khandari Babu v. R. T. A. Udaipur, AIR 1954 Raj 78, and it was held that:

'A permanent need may also, under certain given circumstances, give rise to the existence of a particular temporary need.'

It was further observed that:

'There may be increase of traffic on a particular route and the authority may take steps to grant non-temporary permits for the plying of more vehicles as stage carriages on that route, and in the meantime, if the need is considered immediate,

take action to issue temporary permits, for a period not exceeding four months. The need in such a case may be non-temporary need, but till arrangement can be made to meet it, action may be called for to meet the temporary exigency of increase in traffic.'

A similar view has also been taken By the Assam High Court in Chandi Prosad v. Regional Transport Authority, AIR 1953 Assam 74. It would be also important to bear in mind in this connection the amendment of Section 47(1) (c) providing for the consideration of prospective services in connection with the disposal of applications for permits. Under the law prior to the amendment the relevant consideration was the adequacy of the existing services and there was no provision for consideration of prospective services.

The amendment having permitted the consideration of the prospective services do contemplate rejection of applications on the basis of prospective services likely to come into operation. The conception of a temporary need in this context does warrant and justify a liberal and wide interpretation because the rejection of applications for renewals and for fresh permits in contemplation of prospective services is bound to bring about situations where the traffic requirements can be met only on a liberal view about temporary needs.

It will be proper to observe that it will be hardly desirable and fair to limit the meaning of the expression 'a temporary need' by making generalisations. Indeed it is difficult to anticipate all possible circumstances and considerations which may go to Create temporary needs. Each case will have to be considered on its own facts and circumstances and in the very nature of things, the Transport Authorities should enjoy some discretion in the matter and a proper reasonable bona fide exercise of discretion should not be interfered with in the exercise of extraordinary jurisdiction merely on the ground of irregularities irrespective of public interests,

16. In the light of above discussion, I have no doubt that where a Regional Transport Authority rejects application for permits including application for renewal of permits in contemplation of prospective services by State Transport Undertaking, it does bring about a temporary need and empowers the Regional Transport Authority to grant temporary permits.

This assumption also is, therefore, not justified and in these circumstances I am unable to accept the contention that the Regional Transport Authority being not competent to reject applications for, non-temporary permits and being not competent to grant temporary permits the only alternative is to, treat these temporary permits as renewed permits valid for a period of at least three years.

I may also in this connection refer to Moti Lal v. Uttar Pradesh Govt., AIR 1951 All 257 where it has been held that where a Regional Transport Authority has wrongly issued a temporary permit, when it had no power to do so under Section 62, then such a permit cannot be deemed to be a permanent permit validly issued in accordance with the provisions of the Act. The temporary permits in these circumstances have been in my opinion validly grant-ed by the Regional Transport Authority.

It may be observed in passing that even if there be any irregularity in the grant of temporary, permits, I will not be prepared to exercise extra-ordinary jurisdiction and to cancel them ignoring the public interests. It is also significant that the various petitioners having taken advantage of these temporary permits, although under protest, cannot question the issue of temporary permits. Their prayer for treating them as renewed permits has already been rejected.

17. In the light of the above discussions, the writ applications excepting 83 of 1960 are partially allowed, the resolutions of the Regional Transport Authority are quashed so far as they relate to the rejection of their applications for renewal. The portions of the resolutions granting temporary permits are maintained. The Regional Transport Authority is directed to re-consider the applications forrenewal after observing the principles of natural justice.

The petitioners shall be apprised of the information which was available with the Regional Transport Authority in connection with the nationalisation of the transport services. The Regional Transport Authority will give full opportunity to the petitioners to make all their submissions in connection with the schemes that have been published or that are under contemplation and consider all their contentions which may be relevant under the law.

18. Coming to writ application No. 83 of 1980 (Malik Ram's application), the facts are these. Malikram claims to be permit holder on the Jaipur Ajmer route. The bus operators opposite parties Nos. 2 to 21 are bus operators on the Jaipur Kishengarh routes. Their non-temporary permits expired on or about the 31st October, 1959. Their applications for renewal were rejected on the grounds on which the applications of the petitioners in other cases were rejected.

They were however granted temporary permits. Malikram is challenging the portion of the resolution granting them temporary permits. I may observe at once that while dealing with other writ applications, I have held that it is competent to a Regional Transport Authority while rejecting applications for renewal to grant temporary permits. I may here notice one of the arguments advanced by Mr. Murlimanohar to the grant of temporary permit over this route.

His contention was that originally temporary permits were given once which expired on the 31st January, 1960. Under proviso to Section 62(d), a temporary permit can be granted only once during the pendency of an application for renewal. In the present case, his submission is that the grant of temporary permits a second time was wholly without jurisdiction.

The obvious answer to this contention is that the temporary permits have been granted not during the pendency of application for renewal but were granted in consequence of the rejection of the prayers of various permit-holders for renewal of their permits. It was also brought to my notice that the temporary permits were granted with a retrospective date and therefore in a way they should be deemed to have been issued during the pendency of applications for renewal.

I am not however inclined to accept this argument in the peculiar facts and the circumstances of this case. The Regional Transport Authority could not decide the applications for renewal and the sub-operators had to run their buses in consequence of certificates issued by the Regional Transport Authority. It was more or less an action to regularise that procedure but in substance the order granting temporary permits really follows an order rejecting the applications for renewal of permits.

Malik Ram's writ application was opposed by Mr. Rastogi on a number of other grounds. As I have held that the grant of temporary permits is quite in order and the writ application fails principally on this ground, it is unncessary to consider and examine the other grounds relied upon by Mr. Rastogi. The writ application of Malik Ram, therefore, fails and is hereby rejected. In the peculiarcircumstances of the case, there will be no orderas to costs in this Court.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com