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DELHI ADMINISTRATION

v.

STATE OF HARYANA & ORS.

August 9, 1978

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[S. MURTAZA FAZAL ALI, P. N. SHINGHAL AND A. D. KOSHAL, JJ.]

Motor Vehicles Act, 1959, Sections 48(3) (xiv) and 63(2)—Scope of.

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The Governments of the States of Punjab and Delhi entered into an agreement about 30 years back providing for the running of public service vehicles on routes which covered each of the two States so that every one of such routes had one terminus in one of the States and the other in the other. In pursuance of the agreement one of the Governments would issue permits under the Motor Vehicles Act, 1939 and the same would be countersigned by the other State before the former plied its buses on the routes covered by such routes. One such permit related to the Delhi-Karnal route and was countersigned by the State Transport Authority, Delhi. The routes were extended by the Punjab State authorities under permits granted by them for intra-state routes connecting different towns in the State of Punjab itself. Thus a permit was issued in favour of the Punjab Roadways for the route from Karnal to Chandigarh so that the bus operating on the Delhi-Karnal route would carry passengers from Delhi to Chandigarh via Karnal. In 1966, the appellant objected to the exploitation by the State of Punjab of the inter-State routes in the manner above-stated, that is, by extending them beyond the termini specified in that behalf under the countersignatures made by the State of Delhi, and approached the Inter-State Transport Commission constituted under s. 63-A of M.V. Act with a request for interference. The Commission answered it in favour of the appellant State, and held that "it would not be in order that if one vehicle operating on two permits for two routes were to book direct passengers travelling on both the routes. Operations which would contravene this advice should be stopped and the services be so regulated to ensure that the provisions of the Motor Vehicles Act are not violated". The State of Punjab went up in appeal to the Inter State Transport Appellate Tribunal under rule 24 of the Inter-State Transport Commission Rules 1960. The appeal was dismissed and the respondent State filed a writ petition in the Delhi High Court which was allowed by the Division Bench.

Dismissing the appeal by certificate the Court,

HELD :

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(1) According to clause (xiv) of sub-section (3) of s. 48 of the Motor Vehicles Act, 1959, the conditions attached to the grant of permit, under s. 63(2) *ibid*, may be; (a) that the tickets issued to passengers, shall bear specified particulars; (b) that the tickets shall show the fares actually charged; and (c) that records of the tickets issued shall be kept in the manner specified. None of these conditions embraces a restriction on the permit holder that he shall not ply his vehicles beyond the specified inter-state route even if that is done under another permit which is valid according to law and, therefore,

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clause (xiv) of s. 48(3) read with s. 63(2) of the Act will be of no avail. [76H, 77A-C]

(2) The words "Tickets will be issued for the destinations between Delhi and Karnal. Destination boards should be exhibited" merely lay down positive instructions which the permit-holder had to carry out, namely, that he would not refuse the issue of a ticket between the two termini, i.e., Delhi and Karnal, and that he would also exhibit a board stating that the vehicle in question would cover the route from Delhi to Karnal. Beyond that the words do not go and cannot be construed to mean that the vehicle could not ply beyond Karnal or that a board saying that it was going to Chandigarh via Karnal could not be exhibited, or that tickets could not be issued for any stations except those lying between Delhi and Karnal. In fact, the authority counter-signing the permit had no concern at all with any route beyond Karnal. The plying of the vehicle from Karnal to Chandigarh would be governed not by the permit covering the Delhi-Karnal route or by the counter-signature on it but by another permit issued by the authority competent to deal with the route between Karnal and Chandigarh. [77D-H]

(3) The plying of vehicles by the Haryana Roadways beyond the inter-state route under valid permits issued by the competent authority does not amount to an "extension" of the route such as is prohibited by the Act. [77H, 78A]

The language of sub-section (8) of s. 57 of the Act applies only to a case where the permit holder applies for variation of the conditions of his permit by inclusion of a new route or routes or a new area or by increasing the number of services above the specified maximum. In the instant case, this situation does not arise at all inasmuch as the Haryana Roadways has not applied for the variation of any permit in any way and has, on the other hand, taken and exploited quite another permit for an entirely different route from another competent authority. [78E-F]

OBSERVATION :

[If any long distance passengers are given preference over those leaving Delhi for a station lying between the termini specified in any permit bearing the counter-signature of the Delhi State authorities, a peremptory condition attached to the counter-signature would have been violated, and that State would be entitled to take such action as may be open to it under the law].

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1800 of 1968.

From the Judgment and Order dated 20-10-1967 of the Delhi High Court in Civil Writ No. 1376 of 1967.

S. N. Kacker, Sol. Genl., S. N. Anand and R. N. Sachthey for the Appellant.

V. M. Tarkunde and Gautam Goswami for Respondent No. 1.

Yogeshwar Prasad and (Mrs.) Rani Chhabra for the Interveners.

Ex-parte against Respondents Nos. 2 and 3.

A The Judgment of the Court was delivered by

KOSHAL, J.—The facts giving rise to this appeal by the Delhi Administration on certificate granted by the High Court of Delhi against its judgment dated the 20th October 1967 in a petition under articles 226 and 227 of the Constitution of India (Civil Writ Petition No. 1376/

B 67) are not in dispute and may be briefly stated. The Governments of the States of Punjab and Delhi entered into an agreement about 30 years back providing for the running of public service vehicles on routes which covered each of the two States so that every one of such routes had one terminus in one of the States and the other in the other. In pursuance of the agreement one of the Governments would issue **C** permits under the Motor Vehicles Act 1939 (hereinafter referred to as the Act) and the same would be counter-signed by the other State before the former plied its buses on the routes covered by such permits. One such permit related to the Delhi—Karnal route and was counter-signed by the State Transport Authority Delhi in the following terms :

D “Countersigned for the portion of the route Delhi-Karnal from 31-7-1967 to 30-11-1967 subject to the condition that tickets will be issued for the destinations between Delhi and Karnal. Destination board should be exhibited. Bus will cover the full route and all other conditions applicable under Motor Vehicle Laws.”

E Other permits for the Delhi-Karnal route and other inter-State routes were counter-signed in the same terms.

The routes above-mentioned were extended by the Punjab State authorities under permits granted by them for intra-State routes connecting different towns in the State of Punjab itself. Thus a permit was **F** issued in favour of the Punjab roadways for the route from Karnal to Chandigarh so that the bus operating on the Delhi-Karnal route would carry passengers from Delhi to Chandigarh via Karnal.

On the 25th July 1956, officers of the two States came to an agreement whereby the State of Punjab was given the right to extend its **G** services on inter-State routes to any town in the State of Punjab. This agreement was subject to ratification by the Governments of the two States, which was, however, never accorded.

In the year 1966, the State of Delhi objected to the exploitation by the State of Punjab of the inter-State routes in the manner above stated, that is, by extending them beyond the termini specified in that behalf **H** under the counter-signatures made by the State of Delhi and approached the Inter-State Transport Commission (hereinafter called the Commission) constituted under sub-section (1) of Section 63A of the Act with

a request for interference. After hearing counsel for the two States the Commission passed an order dated 27th August, 1966, in favour of the State of Delhi. The operative part of that order alongwith the reasons listed by the Commission in support of it is extracted below :

“Section 48(2) of the Motor Vehicles Act, 1939, prescribes that every stage carriage permit shall be expressed to be valid only for a specified route or routes or for a specified area. It appears, therefore, that if a permit is expressed to be valid only for the one specified inter-State route, the same transport vehicle covered by the same inter-State permit cannot be allowed to proceed further to another route with liberty to pick up passengers en route on a second route, which is an intra-State route, as this would be in violation of the provisions of the Act. There is no objection to the same vehicle running on another route under a different permit, but it would be objectionable if passengers who embark on the route covered by the inter-State permit are given direct tickets to any town on the second route for which the vehicle holds an intra-State permit. The issue of such a direct ticket would amount to extending the span of the inter-State route, which is not permissible under the Motor Vehicles Act. In other words, there can be no objection to the linking of the two routes but this linking should not involve boarding of direct passengers, i.e., those holding one ticket for travel over both the routes on either of the two routes.

“On a careful consideration of the provisions of the Motor Vehicles Act, the Commission advise under Section 63A(2)(b) of the Motor Vehicles Act, that it would not be in order if one vehicle operating on two permits for two routes were to book direct passengers travelling on both the routes on direct tickets for places on both the routes. Operations which would contravene this advice should be stopped and the services be so regulated to ensure that the provisions of the Motor Vehicles Act are not violated.”

The State of Punjab went up in appeal to the Inter-State Transport Appellant Tribunal (hereinafter called the Tribunal) under rule 24 of the Inter-State Transport Commission Rules, 1960. That appeal was dismissed on the 4th July 1967 through an order, paragraph 3 to 7 of which may be re-produced for facility of reference :

“3. The learned counsel for the Delhi Administration replied that the issue of tickets was a condition of a permit under Section 48(3) (xiv) of the Motor Vehicles Act. The

- A** inter-State permit from Delhi to Karnal was, therefore, subject to the condition that tickets bearing specified particulars shall be issued to passengers and shall show the fares actually charged. This must be construed to mean that the ticket which is issued as a condition attaching to a single permit would be restricted to the route or routes covered by that permit. As the inter-State route alone is covered by the permit which is countersigned by the Delhi Administration, the said permit would require the issue of a ticket only on the Delhi-Karnal route but not beyond.
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- C** “4. We think that the contention of the Delhi Administration is further supported by Section 42(1) of the Motor Vehicles Act under which no owner of a “transport vehicle” (which includes a stage carriage) shall use the vehicle in any public place, save in accordance with the conditions of a permit granted or countersigned by a Regional or a State Transport Authority authorising the use of the vehicle in that place in the manner in which the vehicle is being used. The vehicle starting from Delhi on the Delhi-Karnal route would be governed by the conditions of the inter-State permit countersigned by the Delhi Administration. The use of the vehicle at Delhi or, for the matter of that, at any place on the inter-State route, must be governed by the conditions of the inter-State permit alone. We have already construed section 48(3)(xiv) to mean that the tickets which must be issued as a condition of the permit must relate to the route or routes or area covered by that permit. It would follow therefore that tickets to be issued from Delhi could not be for any place which was beyond Karnal and, therefore, not covered by the inter-State permit.
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- G** “5. Learned Counsel for the Government of Punjab submitted that the Delhi Administration has countersigned only the inter-State route covered by a permit issued by the Government of Punjab with the knowledge that the same permit was valid for a further intra-State route also. This, however, cannot mean that the Delhi Administration are estopped from contending that under the conditions of the inter-State permit, a ticket for a place beyond the Inter-State route cannot be issued.
- H** “6. From the point of view of the convenience of the passengers, we would have liked the vehicle starting from Delhi to issue a long distance ticket to a place even beyond

Karnal so that the passengers starting from Delhi could be assured of reaching their destination beyond Karnal. Unfortunately, the attainment of this objective has been fettered by the existing provisions of the Motor Vehicles Act referred to above.

“7. For the above reasons, therefore, we are of the view that the advice given by the Inter-State Transport Commission was, on the whole, correct, though we have taken the liberty of adding to the reasons on which the advice could be supported. The appeal is, therefore, dismissed.”

This order of the Tribunal was challenged by the State of Haryana (which had been carved out of the erstwhile State of Punjab in the meantime) in the petition under Articles 226 and 227 of the Constitution of India which we have mentioned above and which has been accepted by a Division Bench of the High Court of Delhi. The High Court took note of the various provisions of the Act and concluded that there was no warrant for the proposition that tickets could not be issued at Delhi for stations beyond Karnal by the Haryana Roadways for a bus operating under a permit in respect of the Delhi-Karnal route and that the Commission and the Tribunal had both erred in holding to the contrary. The High Court observed that under clause (xiv) of sub-section (3) of Section 48 of the Act, the Delhi State could impose conditions subject to which its counter-signature in relation to a permit covering an inter-state route was to be valid, but added that such conditions could only be those which were covered by that clause and no others. It further found that no condition preventing the permit-holder from issuing a direct ticket from Delhi to Chandigarh via Karnal was ever imposed by the State Transport Authority, Delhi, and also that such a condition could not be imposed inasmuch as (a) the same would not be relatable to the inter-State route and (b) it would not be covered by clause (xiv) aforesaid. It turned down a plea that the issuance of tickets from Delhi to Chandigarh by the Haryana Roadways affected the identity of the Delhi-Karnal route or amounted to its extension. In the result, therefore, the High Court issued a writ of *certiorari* quashing the orders of the Commission and the Tribunal and restrained the Delhi Administration from interfering with the operation of the Stage carriages of the State of Haryana on the Delhi—Haryana inter-State routes on the plea that the issue of direct tickets beyond the terminal stations in Haryana on those routes was prohibited either by the provisions of the Act or by any condition attached by the State Transport Authority, Delhi.

A 2. Before us, the contentions raised on behalf of the appellant are :

B (1) The Regional Transport Authority, Delhi, had the power under sub-sec. (2) of Sec. 63 read with clause (xiv) abovementioned to impose, while according its counter-signature to a permit relating to an inter-State route, a condition to the effect that tickets shall not be issued for any station beyond the two specified termini and such a condition could be spelt out of the counter-signature above extracted by necessary implication.

C (2) The counter-signatures covered only inter-State routes having specified termini and the issuance of tickets by the Haryana Roadways for stations beyond the terminus located in the Haryana State and specified in a particular permit (which has been countersigned by the Delhi State authorities) amounted to an extension of the route which the Act did not permit.

D We find no force in either of these contentions for the reasons which follow and which are substantially the same as advanced by the High Court in the detailed judgment under appeal.

3. Sub-section (2) of Section 63 of the Act states :

E “(2) A Regional Transport authority when countersigning the permit may attach to the permit any condition which it might have imposed if it has granted the permit, and may likewise vary any condition attached to the permit by the Authority by which the permit was granted.”

F The conditions which a Regional Transport Authority may attach to a permit while granting it are contained in clause (xiv) abovementioned which runs thus :

G “(xiv) that tickets bearing specified particulars shall be issued to passengers and shall show the fares actually charged and that records of tickets issued shall be kept in a specified manner;”

According to this clause, the conditions attached to the grant of a permit may be—

H (a) that the tickets issued to passengers shall bear specified particulars;

- (b) that the tickets shall show the fares actually charged;
and
- (c) that records of the tickets issued shall be kept in the manner specified.

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None of these conditions embraces a restriction on the permit-holder that he shall not ply his vehicle beyond the specified inter-State route even if that is done under another permit which is valid according to law, and we, therefore, do not see how clause (vix) as above extracted read with sub-sec. (2) of S. 63 of the Act helps the case of the appellant.

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4. Nor can we agree with the plea that the counter-signature above extracted could be construed as laying down a condition that the permit-holder could not ply his vehicle beyond the specified terminus in the State of Haryana. Learned counsel for the appellant has laid emphasis on the words "Tickets will be issued for the destinations between Delhi and Karnal. Destination boards should be exhibited," and wants us to interpret them as implying a prohibition on the use of the concerned vehicles beyond Karnal. We are of the opinion, however, that no such interpretation can be placed on them. They merely lay down positive instructions which the permit-holder had to carry out, namely, that he would not refuse the issue of a ticket between the two termini, i.e., Delhi and Karnal, and that he would also exhibit a board stating that the vehicle in question would cover the route from Delhi to Karnal. Beyond that the words do not go and cannot be construed to mean that the vehicle could not ply beyond Karnal or that a board saying that it was going to Chandigarh via Karnal could not be exhibited, or that tickets could not be issued for any stations except those lying between Delhi and Karnal. In fact, the authority counter-signing the permit had no concern at all with any route beyond Karnal. The plying of the vehicle from Karnal to Chandigarh would be governed not by the permit covering the Delhi-Karnal route or by the counter-signature on it but by another permit issued by the authority competent to deal with the route between Karnal and Chandigarh. The first contention raised on behalf of the appellant is, therefore, found to be without substance.

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5. We also find no force in the plea that the plying of vehicles by the Haryana Roadways beyond the inter-State route under valid permits issued by the competent authority would amount to an

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A "extension" of the route such as is prohibited by the Act. Reliance in support of the plea was placed on sub-s. (8) of S. 57 of the Act which lays down :

B " (8) An application to vary the conditions of any permit, other than a temporary permit, by the inclusion of a new route or routes or a new area or, in the case of a stage carriage permit, by increasing the number of trips above the specified maximum or by altering the route covered by it or in the case of a contract carriage permit or a public carrier's permit, by increasing the number of vehicles covered by the permit, shall be treated as an application for the grant of a new permit :

C Provided that it shall not be necessary so to treat an application made by the holder of a stage carriage permit who provides the only service on any route or in any area to increase the frequency of the service so provided, without any increase in the number of vehicles."

D As pointed out by the High Court, the language of the sub-section applies only to a case where the permit-holder applies for the variation of the conditions of his permit by inclusion of a new route or routes or a new area or by increasing the number of services above the specified maximum. In the case before us this situation does not arise at all inasmuch as the Haryana Roadways has not applied for the variation of any permit in any way and has, on the other hand, taken and exploited quite another permit for an entirely different route from another competent authority. Apart from sub-sec. (8) abovementioned, we have not been referred to any provision of the Act in support of the plea under consideration which, therefore, fails.

E 6. Learned Counsel for the appellant drew our attention to a possible unfortunate situation which might result from the conclusions which the High Court has reached and, in our opinion, reached rightly. His apprehension was that in order to make more money and to avoid inconvenience to itself the Haryana Roadways, while operating under the permit pertaining to the Delhi-Karnal route, would perhaps not issue any tickets to passengers bound for stations lying in between Delhi and Karnal so long as it could find customers travelling directly from Delhi to Chandigarh and that in that event the real purpose of the counter-signature would be wholly defeated. We

would certainly not approve of such a situation but then it is nobody's case that the Haryana Roadways has been plying its buses on the Delhi-Chandigarh route or, for that matter, any other route, in that fashion. However, we may make it clear that if any long distance passengers are given preference over those leaving Delhi for a station lying between the termini specified in any permit bearing the counter-signature of the Delhi State authorities, a peremptory condition attached to the counter-signature would have been violated, and that State would be entitled to take such action as may be open to it under the law. Subject to this observation, the appeal fails and is dismissed, but with no order as to costs.

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S.R.

Appeal dismissed.