CHERAN TRANSPORT CO. LTD.

V.

KANAN LORRY SERVICE AND ANOTHER

December 10, 1976

[A. N. RAY, C.J., M. H. BEG AND V. R. KRISHNA IYER, JJ.]

Motor Vehicles Act—Secs. 58, 68—*C.* 68*D*(3), 68*F*(1*D*)—*Stage carriage operator—Permit—Renewal—Renewal application made within time—Whether can be defeated by Publication of Scheme.*

The respondent was a Stage Carriage Operator whose two permits were to expire in January and March 1976. In the usual course and in compliance with section 58 of the Motor Vehicles Act, 1939, he applied for renewal more than 120 days ahead but at the time of the actual date of expiry of the permits a draft scheme under part IV-A had been published. The State withdrew the draft scheme under part IV-A for some technical reasons and republished in July 1975, after the appellants' permits had expired. Section 68F(1D) provides that no permit shall be granted or renewal during the period intervening between the date of publication under s. 68C of any scheme and the date of publication of the approved or modified scheme. The proviso to the said section provides that if a permit expires after the publication of the scheme such permit may be renewed for a limited period but the renewed permit shall cease to be effective on the publication of the scheme under s. 68D(3). Applying the prohibition contained in s. 68F(1D) the Regional Transport Authority rejected the prayer for renewal. The High Court set aside that order and directed the grant of the renewal.

Dismissing the appeals,

HELD : 1. At the time the respondents' permit expired a draft scheme had already been published but the approved scheme had not been published. Any permit holder whose permit expires during this spell is eligible for a renewal as specified in the proviso. The fact that the draft scheme was later withdrawn cannot affect the rights to a renewal. Renewal of the permit however would be to the extent contemplated by section 68F(1D). [390G-H]

2. (a) No permit or renewal except to the extent expressly saved by section 68F(1D) can be granted by the Regional Transport Authority during the period between the date of publication of any scheme and the date of publication of the approved scheme. [391C]

(b) If a permit expires after the publication of any draft scheme such permit is eligible for renewal for a limited period as set out in the proviso. The special provision contained in that proviso cannot be stretched on the ground of possible anomalies or unjust consequences to cover permits expiring even before the publication of the draft scheme. Where language is plain the interpretation cannot take the shape of addition or interstitial legislation. [391C-D]

3. If a permit holder whose permit is about to expire diligently does in the normal course, all that he needs and all that he can, that is to say, if he sets in motion the legal machinery for the grant of renewal as laid down in section 58, the fact that a scheme is published before the actual grant of renewal will not intercept or extinguish the process of law set in motion by the application for renewal. If for reasons beyond the control of the applicant the renewal process gets delayed or prolonged he cannot be penalised. Renewal is a legal process and not the final act. Save in this category of cases all other permits which have expired before the draft scheme is published, suffer the ban of s. 68F(1D). However, no permit can ensure beyond the time of the publication of the approved scheme. [391D-F]

A CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 1349-1350/76.

Appeals by Special Leave from the Judgment and Decree dated the 12th October 1976 of the Madras High Court in Writ Petition Nos. 5881 and 5884 of 1975.

B *V. P. Raman,* Addl. Sol. General of India, (Mrs.) *N. G. Krishna Iyengar, Shri Narain, K. J. John, D. N. Mishra* for the Appellant.

F. S. Nariman, M. N. Rangachari, A. R. Ramanathan, Jayaraman, M. M. L. Srivastava and *A. T. M. Sampath* for Respondent No. 1.

The Judgment of the Court was delivered by—

C KRISHNA IYER, J. The short question, involving a point of construction of s. 68-F(ID), has been raised by the Additional Solicitor General in these appeals by Special Leave.

The respondent was a stage carriage operator whose two permits were to expire in January and March 1976. In the usual course and in compliance with s. 58 of the Motor Vehicles Act, 1939 (for short, D 'The Act') he applied for renewal more than 120 days ahead but at the time of the actual date of expiry of the permits a draft scheme under part IV-A had been published. This fulfilled the requirements of the *proviso* to s. 68-F(1D) and entitled the appellant to renewal for the limited period stated in the said proviso. But the State withdrew the draft scheme for some technical reasons and republished it in July 1975, after the appellant's permit had expired. Applying E the prohibition contained in s. 68-F(1D) the Regional Transport Authority (for short the 'R.T.A.') rejected the prayer for renewal. However, the High Court set aside that order and directed the grant of renewal, on a certain view of the section which the Additional Solicitor General contends goes beyond the limits of the plain words used. The aggrieved State appeals.

F While we are satisfied that on the peculiar facts of this case the respondent can sustain the permits the legal position canvassed by the appellant appears to be correct.

At the time the respondent's permit expired a draft scheme had already been published but the approved scheme had not been published. Any permit holder whose permit expires during this spell is G eligible for a renewal as specified in the proviso. The fact that the draft scheme was later withdrawn cannot affect the right to a renewal. We, therefore, hold that the renewal of permit shall remain to the extent contemplated in the proviso to s. 68-F(1D).

Before we consider the legal question we may read s. 68-F(1D).

> "(1D) Save as otherwise provided in sub-section (1A) H or sub-section (1G), no permit shall be granted or renewed during the period intervening between the date of publication, under Section 68-C of any scheme and the date of publication of the approved or modified scheme, in favour of

any person for any class or road transport service in relation to an area or route or portion thereof covered by such scheme.

Provided that where the period of operation of a permit in relation to any area, route, or portion thereof specified in a scheme published under Section 68-C expires after such publication, such permit may be renewed for a limited period, but the permit so renewed shall cease to be effective on the publication of the scheme under sub-section (3) of Section 68-D."

Three propositions plainly emerge.

No permit or renewal, except to the extent expressly saved by s. 68-F(1D), can be granted by the R.T.A. during the period between the date of publication of any scheme and the date of publication of the approved scheme. (2) If a permit expires after the publication of any draft scheme such permit is eligible for renewal for a limited period as set out in the proviso. This special provision cannot be stretched, on the ground of possible anomalies or unjust consequences, to cover permits expiring even before the publication of the draft scheme. Where the language is plain, interpretation cannot take the shape of addition or interstitial legislation. (3) A rider to proposition No. 2 has to be added. If a permit holder whose permit is about to expire, diligently does, in the normal course, all that he need and all that he can, that is to say, apply for renewal before 120 days, in the manner laid down in s. 58 of the Act, he sets in motion the legal machinery for the grant of renewal which must ordinarily culminate in renewal within 120 days. The fact that a scheme is published before the actual grant of renewal will not intercept or extinguish the process of law set in motion by the application for renewal. In such cases the R.T.A. has to act promptly and if the application for renewal is in conformity with the law it has to consider it and grant or reject according to merit. If, for reasons beyond the control of the applicant, the renewal process gets delayed or prolonged he cannot be penalised. Renewal is a legal process, not the final act. Save in this category of cases, all other permits which have expired before the draft scheme is published, suffer the ban of s. 68-F(1D). However, no permit can enure beyond the time of the publication of the approved scheme. This saves cases of *bona fide* applications for renewal of permits, not calculated to thwart a scheme, and helps the travelling public during the interregnum when the scheme is under scrutiny. The wider proposition accepted by the High Court that all permits which have expired before the draft scheme is published can be renewal does not appear to be correct and does not have our approval.

With this declaration of the law we dismiss the appeals. No order as to costs.

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Appeals dismissed.