

City of Bradford Metropolitan District Council v Obaid

No. CO/703/01, Neutral Citation Number: [2001] EWHC Admin 536

High Court of Justice Queen's Bench Division Divisional Court

29 June 2001

2001 WL 676751

Before: Lord Justice Latham and Mr Justice Forbes

Friday 29th June, 2001

Representation

- Mr John Blair-Gould (instructed by Dept of Legal Services , City Hall, Bradford, West York BD1 1HY) appeared on behalf of the Claimant.
- The Defendant did not appear and was not represented.

JUDGMENT

LORD JUSTICE LATHAM:

1. I will ask Forbes J to give the first judgment.

MR JUSTICE FORBES:

2. This is an appeal by way of case stated against a decision of the justices for the County of West Yorkshire sitting at Bradford Magistrates' Court on 14th December 2000 whereby they dismissed an information that the respondent did, without reasonable excuse, cause a Vauxhall Cavalier motor vehicle, registration number N928 BUA, not being a hackney carriage, to wait on a stand for hackney carriages at Manor Row, appointed by the City of Bradford Metropolitan Council under section 63 of the Local Government (Miscellaneous Provisions) Act 1976 contrary to section 64(3) of the Local Government (Miscellaneous Provisions) Act 1976 .

3. The facts as found by the justices are set out in paragraph 2 of the case stated, as follows: • " (i) That the respondent, a private hire taxi driver had stopped within the stand for hackney carriages at Manor Row to drop off his passengers.

• (ii) That the respondent, having dropped off his passengers, was immediately about to leave the hackney carriage stand at Manor Row and proceed about his private hire business.

• (iii) Before the respondent was able to pull off from the hackney carriage stand he was stopped by a Hackney Carriage Enforcement Officer who after interview issued the respondent with a caution notice regarding the above offence."

4. Although not expressly stated to be part of the facts as found by the justices, paragraph 2 of the case stated continues uncontroversially as follows:

" The finding of those facts was based on the evidence provided under oath by the respondent and also the evidence of Andrew Mellor, the Hackney Carriage Enforcement Officer, who gave evidence that from first seeing the respondent's taxi within the hackney rank to his speaking to the respondent, no more than a minute had elapsed."

5. In paragraphs 5 and 6 of the case stated the justices set out their reasons for their decision in the following terms: " 5. We were referred to no case law on the subject. The legal adviser read out the relevant legislation and reminded us of the burden of proof in this prosecution. 6. We were of the opinion that the word ' wait' should be given its ordinary meaning and that had Parliament intended that any stopping by a vehicle other than hackney carriages within the hackney rank be unlawful they would have used such

wording as 'stop within' rather than 'to wait'. We were of the opinion that to wait involves more than stopping momentarily. Accordingly we decided that the respondent, not being a hackney taxi, did not cause his vehicle to wait on a hackney rank as per the offence and therefore acquitted the respondent after trial."

6. The question which is then posed in paragraph 7 of the case stated for the opinion of this court is as follows:

" ... whether stopping a motor vehicle on a taxi rank (being a stand for hackney carriages during a period of which the stand has been appointed, or is deemed to have been appointed by a District Council under the provisions of s.63 of the Local Government (Miscellaneous Provisions) Act 1976 in order to set down passengers amounts to causing or permitting it to wait there contrary to s.64(1) of the Local Government (Miscellaneous Provisions) Act 1976 ."

7. The statutory framework is as follows. So far as material, section 36(1) of the Local Government (Miscellaneous Provisions) Act 1976 provides:

" For the purposes of their function under the Act of 1847, a district council may from time to time appoint stands to hackney carriages for the whole or any part of a day in any highway in the district which is maintainable at the public expense ..."

8. Section 64 of the 1976 Act provides:

" (1) No person shall cause or permit any vehicle other than a hackney carriage to wait on any stand for hackney carriages during any period for which that stand has been appointed, or is deemed to have been appointed, by a district council under the provisions of section 63 of this Act ...

(3) If any person without reasonable excuse contravenes the provisions of this section, he shall be guilty of an offence."

9. Section 64(4) provides for a special defence for the driver of a public service vehicle, for example a bus, who " by reason of obstruction to traffic or for other compelling reasons" has pulled into a stand in order to set down or take up passengers.

10. On behalf of the appellant Council, Mr Blair-Gould submitted that the existence of the special statutory defence in section 64(4) of the 1976 Act suggests that Parliament recognised that, were it not for that special defence, such conduct on the part of the public service vehicle might otherwise amount to an offence under section 64(1) and (3) . He submitted that stopping in order to set down passengers amounts to causing a vehicle to wait. He argued that the only reason the word " wait" is used rather than " stop" is to allow for momentary stops. " Wait" , he submitted, does not mean wait for something but means to remain. Mr Blair-Gould suggested that this appears to be borne out by the decision in *Rodgers v Taylor* [1987] RTR 86 , where the court held that a taxi could not wait at a taxi stand except in order to operate the vehicle as a taxi. In that particular case the court approved a concession by the prosecutor that there was an implied limitation of the word " wait" in such circumstances where, for example, a car had been brought to a standstill for a short period of time by a traffic jam. Mr Blair-Gould submitted that the purpose of the prohibition in the legislation is to allow taxis to have unrestricted access to a taxi rank and to prevent any risk of unauthorised vehicles plying for hire or being mistaken for taxis. Therefore, he argued, the time taken to set down passengers and to receive payment from them cannot be treated as *de minimis* or too short to be considered. It is central to the purpose of a taxi rank that it should be reserved for taxis and not used by private hire vehicles.

11. In my judgment, Mr Blair-Gould's submissions are correct and are supported by the

existence of the special statutory defence in section 64(4) of the 1976 Act. The word "wait" is a word which is frequently used in English and should be given its natural and ordinary meaning, that meaning being the one which is appropriate to the context in which the word is used. I put it that way because, like many commonly used words, "wait" is capable of a number of meanings, or shades of meaning, and its particular meaning in any given case will be that which is appropriate to its context.

12. In my view, in the context in which it is used in the present case, "to wait" means to remain in the same place for a period of time which is other than purely nominal. In my judgment, on the facts as found by the justices, although it was very short in duration, the period of time during which the respondent's motor car remained within the hackney stand in question whilst the respondent dropped off his passengers, cannot properly be regarded as purely nominal. The existence of the statutory defence under section 64(4) clearly supports that conclusion. I am of the firm opinion that the justices should have come to the conclusion that, on the facts of this case, the respondent did cause his motor car to wait on the hackney stand in question.

13. Accordingly, I would give the answer "yes" to the question posed by the justices. I would, therefore, allow this appeal, quash the order of the justices and remit the matter to the Magistrates' Court for reconsideration by a differently constituted Bench of magistrates.

LORD JUSTICE LATHAM: I agree.

MR BLAIR-GOULD: My Lords, we do not apply for costs.

LORD JUSTICE LATHAM: Thank you very much, Mr Blair-Gould.

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