

1943

Present : de Kretzer J.

NORTH-WESTERN BLUE LINE, Appellant and K. B. L.  
PERERA, Respondent.

Case stated Nos. 3,121, 3,122, and 3,123 by the Tribunal of Appeal  
under the Motor Car Ordinance.

*Motor Car Ordinance No. 45 of 1938, s. 4 (6) (c)*—Case stated by the Tribunal  
of Appeal—Notice of case stated to Commissioner of Transport—Taxation  
of costs of Counsel.

Where in a case stated to the Supreme Court by the tribunal of appeal  
under the Motor Car Ordinance the party requiring the case to be  
stated filed the case stated at the Supreme Court Registry on June 7,  
and posted notice of the case stated to the Commissioner of Transport  
on June 8.

Held; that the party had failed to comply with the requirements  
of section 4 (6) (c) of the Motor Car Ordinance.

The practice with regard to the taxing of Counsel's costs indicated.

*Cosmas v. The Commissioner of Income Tax* (39 N. L. R. 457) followed.

THIS was a case stated in the Supreme Court by the Tribunal of  
Appeal under the Motor Car Ordinance.

N. Nadarajah, K.C. (with him D. D. Athulathmudali), for appellant.

H. V. Perera, K.C. (with him J. E. M. Obeyesekere), for respondent.

T. S. Fernando, C.C., for the Commissioner of Motor Transport.

June 16, 1943. DE KRETZER J.—

Crown Counsel takes a preliminary objection to the hearing of this case  
stated and the objection is that the party requiring the case to be stated  
did not send to the Commissioner the notice required by section 4  
(6) (c) at or before the time when he transmitted the stated case to the  
Supreme Court. It is admitted that the case was handed in at the  
Registry on June 7 and it is also admitted that the notice was posted  
on June 8. Crown Counsel submits the envelope which shows that the

letter was posted on June 8 and received by the Commissioner on June 9. A similar provision in the Income Tax Ordinance was adjudicated upon by Poyser and Keuneman JJ. in the case of *Cosmas v. The Commissioner of Income Tax*<sup>1</sup>. I see no reason to disagree with that decision. In fact Mr. Nadarajah frankly admits that it is against him. It is unfortunate, but the objection has to be given effect to. The case stated is therefore rejected with costs.

With regard to the costs, I understand both from Counsel and from the Registrar that as a result of a ruling by this Court in a similar matter, the Registrar would allow Crown Counsel's costs up to 14 guineas and the costs of preparing the brief, and in the case of private Counsel would allow any sum for which a receipt was submitted together with costs of preparing brief. Mr. H. V. Perera for respondent in some cases that were dealt with by me yesterday, very generously offered to limit his client's costs to Rs. 525. It seems to me that that offer was made in the right spirit. It is impossible to regard each case from the point of view of the importance of the point of law argued, and to say that one point of law is more important than another and it is impossible to assess what financial implications there are behind the contest. There may be very large sums involved, and probably there are large sums involved, considering the way in which these contests are being fought. I think therefore that awarding a sum of Rs. 525 to Mr. Perera's clients and Rs. 150 to Crown Counsel would not be unreasonable and I so award costs.

*Case stated rejected.*

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