

94 Phil. 614

[G.R. No. L-4816. March 23, 1954]

**SURIGAO EXPRESS CO., INC., PETITIONER, VS. ADOLFO C. MORTOLA,
RESPONDENT.**

D E C I S I O N

JUGO, J.:

This is a petition for review of a decision of the Public Service Commission.

On September 29, 1950, Adolfo C. Mortola applied to the Public Service Commission for a certificate of public convenience to operate an auto-truck service in the provinces Agusan and Surigao in the Island of Mindanao in Case No. 58688 of said Commission, using the lines from Cabadbaran to Surigao, to Butuan, to Jabonga, and to several barrios of Butuan and Cabadbaran.

The application was set for hearing on November 10, 1950 in Manila. The Surigao Express Company and the Agusan-Surigao Bus Company, which operate passenger buses in Agusan and Surigao, filed written opposition on the ground that there was no public demand for an increase in transportation facilities, and that the granting of the application would cause ruinous competition to the oppositors.

On November 10, 1950, on petition of the applicant, the justice of the peace of Cabadbaran, Agusan, was authorized by the Commission to receive the testimony of the witnesses of the applicant and of the oppositors in the form of depositions, in accordance with Rule 18 of the Rules of Court. The hearing was held before the justice of the peace on January 3, 1951.

On April 24, 1951, the Commission rendered a decision granting the application.

The Surigao Express Company has filed with this Court a petition for review of said decision.

The applicant presented documentary evidence as to his financial condition consisting of real property of the assessed value of P11,180, which he would not sell even for P50,000.

The applicant introduced oral testimony to prove that the buses of the Surigao Express Company could not accommodate all passengers, leaving on several occasions many persons on the roads and other passengers had to cling to the sides of the trucks, which were overcrowded.

On the other hand, the Surigao Express Company presented evidence tending to show that only fifty percent or less of the seating capacity of its buses was being used by the traveling public along the lines above mentioned.

The Commission from the evidence submitted, made the following findings:

That there is a great number of passengers and a big amount of freight on the lines applied for by Mortola; that Butuan and Surigao are ports to which are brought from Cebu, Bohol, Mambajao, Leyte, and other places a great number of emigrants, who work in the saw-mills; that the population of Cabadbaran has increased considerably after the war; that there are two high schools and one college in Cabadbaran which many students attend; that there are a great number of passengers on the lines of Cabadbaran-Surigao and Cabadbaran-Butuan consisting of merchants, students, and farmers; that many passengers wait for transportation along the way who cannot be accommodated in the trucks operating on the lines above referred to, and that these trucks are very often overloaded to such an extent that the passengers have to cling to the sides of the trucks, especially during the market days when there is a great amount of traffic; that these lines are crossed by feeder roads from many places in the interior of the Island; that, in a word, the buses of the oppositor are not sufficient in number and capacity to accommodate the passengers and the cargo; that the

applicant has sufficient capital to run the business applied for.

The petitioner attacks these findings of the court on the ground that they are not reasonably supported by the evidence, and that no member of the Commission saw and heard the witnesses, because the trial was held by the justice of the peace.

In the first place, the Commission had the authority to assign a justice of the peace to hear the evidence under Rule 18, and that there was no objection on the part of the oppositors when the trial was held.

This Court cannot substitute its own findings of fact to those made by the Commission, unless the findings of the latter are not reasonably supported by the evidence of record. We find that on the whole the evidence submitted to the Commission, through the justice of the peace, affords more than reasonable support to the findings of the Commission.

In view of the foregoing, the decision of the Public Service Commission is hereby affirmed, with costs against the petitioner. So ordered.

Paras, C. J., Pablo, Bengzon, Padilla, Reyes, Bautista Angelo, Labrador, Concepcion, and Diokno, JJ., concur.
