

95 Phil. 661

[G.R. No. L-6738. August 25, 1954]

PANGASINAN TRANSPORTATION CO., INC., PETITIONER, VS. MARCIAL TAMBOT, RESPONDENT.

D E C I S I O N

BAUTISTA ANGELO, J.:

Marcial Tambot filed an application for the operation of an auto-truck service on the lines Pozzorubio (Pangasinan) Dagupan City, Pozurrubio (Pangasinan) Baguio City via Kennon Road, and Dagupan City-Baguio City via San Fabian (Pangasinan) and Naguilian Road, in accordance with the time schedule specified in the application.

The application was opposed by the Pangasinan Transportation Co., Inc. on the grounds, among others, that the oppositor is a regular operator of an auto-truck service on the lines applied for and its prewar units on said lines had already been fully rehabilitated; that applicant is not financially capable of maintaining the service applied for and does not possess the necessary experience in the management of land transportation; that there is no necessity for the approval of the application inasmuch as the service being rendered by the oppositor and other regular operators is more than sufficient to serve the needs of the public on said lines; and that if the application will be granted it would only result in ruinous competition to the prejudice of the public service.

After due hearing, the Public Service Commission rendered decision granting to the applicant a certificate of public convenience to operate the lines applied for 25 years utilizing 4 units on the first line and 1 unit each on the last two lines, or a total of 6 units. Dissatisfied with this decision, the oppositor filed the present petition for review.

The first question raised by petitioner refers to the financial capacity of respondent to maintain and operate the proposed service. It is contended that the evidence submitted by respondent to prove his financial capacity is completely insufficient to show that he is

capable to meet the many financial responsibilities that may be occasioned by the operation of a transportation service which demands that the operator must always have ready cash on hand to respond to his obligations to the public. In this connection, it should be stated that the Commission has found respondent to be financially capable having in view the evidence submitted on the matter. Thus, it has been shown that respondent has P15,000 cash; a fishpond with a market value of P20,000 which produces an income of P6,000 a year; a residential land that can be sold for P10,000; a piece of agricultural land which yields an income of P4,000 a year and may be sold for P30,000, and an estimated monthly receipt of P5,000 from the operation of the proposed lines. We consider these figures as sufficient financial support for the operation of the 6 units granted to respondent. At any rate, this matter seems to be moot for it appears that these units had already been purchased and registered with the Commission by respondent.

Petitioner next disputes that finding made by the Commission that public interest and convenience will be promoted in a proper and suitable manner by granting to respondent the certificate of public convenience he is applying for, implying thereby that the evidence presented does not support such finding.

It should be noted that the evidence of both petitioner and respondent on the existence of public necessity is conflicting. While, on one hand, petitioner tried to prove that the passengers on the lines applied for are few and that some of its busses with a capacity of 45 passengers often times only load 3 or 4 persons in their trips, or during their travels between Pozorrubio and Dagupan City, on the other, the respondent presented evidence to show that there are many passengers and plenty of freight along the lines applied for so much so that they encounter great difficulty in securing accommodations in the busses as most of the time when they pass by there are already full especially on the line Dagupan City-Pozorrubio, and that at present there is no operator authorized to operate direct trips between said two points. However, the Commission found that the petitioner does not operate any truck service on the line of Pozorrubio to Baguio City via Kennon Road, nor on the line between Dagupan City and Baguio City via Naguilian Road, which are the two lines applied for, while on the line Pozorrubio (Pangasinan)-Dagupan City, which is also covered by the application, the petitioner operates a bus service but it makes only 12 round trips at an interval of approximately one hour which the Commission believes not sufficient to meet the needs of the public. And in view of his finding, the Commission has come to the conclusion that the proposed service is warranted by public necessity and convenience and granted the authority requested.

We are of the opinion that the above finding should not be disturbed considering the opportunities for observation and analysis of the Commission in evaluating the evidence presented. And so it has been held that, "Where after a full hearing the Public Utility Commissioner makes finding of fact, and there is a material conflict in the evidence, such findings will not be disturbed where they are reasonably supported by the testimony." (Ynchausti Steamship Co. vs. Public Utility Commissioner, 44 Phil., 363.) And in a very recent case, we said: "Whether public necessity and convenience warrant the putting up of additional service on the part of the appellee, is a question of fact which the Public Service Commission has found in the affirmative. This finding, being supported by sufficient evidence, should not be disturbed. (Raymundo Transportation Co. vs. Cervo, 91 Phil. 313.) This Court even went to the extent of holding that it "will refrain from substituting their discretion on the weight of the evidence for the discretion of the Public Service Commission on questions of fact and will only reverse or modify such orders of the Public Service Commission when it really appears that the evidence is insufficient to support their conclusions." (Manila Yellow Taxicab Co. and Aero Taxicab Co. vs. Danon, 58 Phil., 75.)^[1] In this instance we find sufficient testimonial and documentary evidence to support it.

Another circumstance which should not be overlooked is the increase in population in the areas covered by the proposed service. Statistics show that the increase in the population of the municipalities covered by the Pozorrubio-Dagupan line from 1939-1952 amounts to 42,067, the increase in population of the municipalities covered by the line Pozorrubio-Baguio via Kennon Road amounts to 12,285, and the increase in population in the Dagupan-Baguio line via Naguilian Road amounts to 53,250, while, on the other hand there has been no increase in the units or facilities of transportation either on the lines operated by the petitioner or on those covered by other operators. These figures alone warrant the operation of the additional service applied for by respondent.

Petition is dismissed, without pronouncement as to costs.

Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Labrador, Concepcion and Reyes, J. B. L., JJ., concur.

^[1] Jaro Express Co., Inc. vs. Lopez, 39 Off. Gaz., 1905, 66 Phil. 158; Halili vs. Palane, 88 Phil. 450; Santiago Ice Plant vs. Lahoz 87 Phil., 221, 47 Off. Gaz., Supp. (12) 403; Halili vs. de la Cruz, 88 Phil., 699; Interprovincial Autobus Co. vs. Clarete, 91 Phil. 275.

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