

ESTATE OF FLORENCIO P. BUAN, PETITIONER VS. PAMPANGA BUS COMPANY AND LA MALLORCA, RESPONDENTS.*G.R. No. L-7996-99. May 31, 1956*

Ponente: REYES, A., J.

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

The estate of Florencio P. Buan, herein petitioner, is an authorized bus operator along various lines in central and northern Luzon, with authority to operate 8 auto trucks along the Manila-Bagac line and 11 along the Moron-Dinalupihan line. Allegedly in response to various resolutions of municipal councils and on petition of civic and labor groups in the province of Bataan urging extension of its services to their respective municipalities, petitioner applied in four cases in the Commission for certificates of public convenience to operate additional trips between Manila and various municipalities and barrios in Bataan, with a total of 83 units distributed as follows:

Manila-Balanga and vice versa	30 units
Manila-Mariveles and vice versa.....	10 "
Manila-Lamiao and vice versa.....	8 "
Manila-Moron and vice versa.....	8 "
Manila-Orani and vice versa.....	7 "
Manila-Cabcaben and vice versa.....	4 "
Manila-Orion and vice versa.....	6 "
Manila-Limay and vice versa.....	6 "
Manila-Dinalupihan and vice versa.....	4 "

The Pampanga Bus Company and La Mallorca opposed these applications, both alleging that they are authorized to operate and are actually operating a fleet of auto-trucks on the lines applied for and rendering adequate and satisfactory service; that the additional services applied for are superfluous, will not promote public interest in a proper and suitable manner, and will result in cut-throat and ruinous competition. The Commission, after hearing the parties and their evidence and having before it the records of the authorized services on the lines applied for, as well as the findings of two of its agents who had been ordered by it to make an on-the-spot survey of the passenger traffic along those lines, rendered a joint decision in the four cases, denying the applications on the grounds that petitioner had not made a case for the grant of the certificates applied for, that the service of the oppositors was adequate and sufficient for the actual needs of the public and that the grant of the applications would only result in unnecessary or wasteful competition. Reconsideration of this decision having been denied, petitioner has sought a review of this Court.

It would appear from the record that the Pampanga Bus Company is authorized and actually operating 27 round trips on the Limay-Manila line, 8 on the Limay-San Fernando, Pampanga, line; 14 on the Mariveles-Limay line, 4 on the Balanga-Moron line, 3 on the Balanga-Dinalupihan line, and 1 on the Guagua-Dinalupihan line, while the La Mallorca has 15 round trips on the Linao-Manila line, 6 on the Balanga-Manila line, 16 on the Cababalan-Balanga line, and 20 on the Balanga-Dinalupihan line. The main issue in this petition for review is whether or not the trips actually being operated by the two companies, together with those of petitioner, are adequate to serve the public need.

To prove the inadequacy of the present service, 14 witnesses took the stand for petitioner and testified to the insufficiency of transportation facilities and the need for additional service on the lines applied for. Documentary proof, consisting of resolutions of municipal councils of Balanga, Dinalupihan, Limay, and Orani, and a petition of the Association of Citizens of Orion, was also adduced to show the need for the solicited additional service, and there was also mention of the inability of the Pampanga Bus Company to register its authorized number of units, as well as the alleged noncompliance on the part of the two respondent companies with the terms of their certificates by suppressing trips on hours when they do not expect a sufficient number of passengers. On their part the two respondent companies presented six witnesses, and documentary proof too, to show that they were rendering service in accordance with the requirements of their certificates and that the needs of the traveling public were being adequately served.

Unable at first to arrive at a decision from the conflicting evidence presented for both parties, the Commission ordered a survey of the passenger traffic on the lines applied for, and to that end assigned and stationed in two strategic places in Bataan two of its agents. The agents made a check-up of the number of passengers coming to and from the whole province for a period of one week and thereafter submitted their findings. Considering these findings together with the evidence submitted by the parties, the Commission found that—

"The reports of agents at both checkpoints confirm the assertion of the oppositors that the existing: passenger traffic in all the lines do not warrant the authorization of additional service. An examination of the reports will show that on an average from 12 to 15 passengers were carried by each bus checked and in many instances the number of passengers carried was between two and ten. A computation of the load of the buses on all the lines during the period of checking shows that the average payload per bus on the lines was even less than 50 per cent. On the Manila-Balariga line, the load was 33 per cent; Manila-Limay 30 percent; Manila-Linao 33 per cent; Manila-Orion 38 per cent; Manila-Bagac 39 per cent, and on the local lines like San Fernando-Limay, Dinalupihan-Balanga; Guagua-Limay and Dinalupihan-Moron, the average load was about 20 per cent of the carrying capacity of the truck. A similar finding results from the checking undertaken at Layac, Dinalupihan, where the payload of the trucks as checked is practically the same as that of the trucks checked at Balanga. The checking also indicates that oppositors operate their service in accordance with the schedules prescribed in their certificates and that the service which they render together with that of other operators provide the public with buses at frequent intervals so that we find it difficult to believe the assertion of applicant's witnesses that passengers can not be accommodated due to insufficient trips or that buses which arrive are so loaded that they are not allowed to ride."

The above-quoted findings are obviously supported by more than substantial evidence and therefore binding upon this Court, which is not required to examine the proof *de novo* and determine for itself whether or not the preponderance of evidence really justifies the decision below. Moreover, such doubt as might arise from the conflict of evidence appears to be dissipated by the reports of the two checkers sent out to observe by the Commission. As pointed out in the decision, an examination of those reports "will show that on an average from 12 to 15 passengers were carried by each bus checked and in many instances the number of passengers carried was between two and ten." Needless to say, the sending of the two checkers for purposes of observation appears to be justified, for as this Court has already said, "where the evidence was conflicting as to whether existing

service of the holder of a certificate of convenience for land transportation was inadequate, so that another certificate should be granted to petitioner, the Public Service Commission acted with prudence in spending two of its inspectors to investigate and report on the situation. (Gilles vs. Halili, 65 Phil., 738.)

It is, however, contended that the Commission erred in denying petitioner's four applications for direct service specially to those places where the two respondents have no authority to operate a direct service to and from Manila, and in sustaining respondent's opposition notwithstanding the fact that they themselves have filed applications for direct service on the lines proposed to be served by petitioner in the present case, in which applications they allege the necessity for additional service. It is argued in this connection that the two oppositors are serving only three of the nine lines applied for by petitioner, that is, Limay-Manila, Lamao-Manila, and Balanga-Manila, and dispatch early morning trips from Dinalupihan, Orion, Cabcaben, and Mariveles to Manila when neither of them has authority to operate direct service from these places to Manila and that this unauthorized operation can not be considered as evidence in support of the finding of adequate and sufficient facilities to warrant denial of applications for direct service to those places for which none is authorized.

We find no merit in petitioner's contention. While it is true that the two oppositors have authority to operate direct service only on three of the nine lines applied for by petitioner, in reality these direct lines pass through the other routes applied for like Orani and Orion, and the two oppositors have sufficient and convenient trips going to the other points like Mariveles, Moron, Cabcaben, and Dinalupihan, whose hours of departure and arrival are coordinated with those on the direct trips to Manila. And for a clearer apprehension of the situation in this case, it should be noted that there is only one main highway in the province. From its Mariveles end, the route of this highway towards Manila traverses in consecutive order the barrios of Cabcaben and Lamao, the towns of Limay, Orion, Pilar, Balanga, Abucay, Samal, Orani, Hermosa, and the barrio of Layac, Dinalupihan. The only places not touched by this highway, to where lines are also proposed by petitioner, are Dinalupihan, which lies along the Zambales highway two kilometers from the Layac junction, and Moron, which lies southwest of Balanga and is connected to the highway by a road which passes through Bagac and intersects it at Piilar. Evidently, respondents' 15 trips from Lamao, 27 trips from Limay, and the 6 trips from Balanga direct to Manila, as well as petitioner's own 8 trips from Bagac to Manila, all pass along this main highway so that in truth Lamao is served with 15 trips; Limay and Orion 42 trips; Pilar, Balanga, Abucay, Samal, Orani, Hermosa, and Layac, 56 trips daily to and from Manila, not to mention the trips furnished by local operators within the province. With the Commission's finding that the average payload per bus on the Bataan line is less than 50 per cent and respondents' evidence, not contradicted by petitioner, that they are not getting a reasonably fair margin of profit on their lines, the granting of authority to operate the proposed additional services would undoubtedly crowd the routes presently served both by the respondents and the petitioner and decrease the already low average payload per bus, thereby provoking cut-throat competition, which ultimately results in deterioration of service due to heavy losses or diminution in income.

The discriminatory attitude imputed to the Commission by reason of its having, to petitioner's prejudice, allegedly deviated from its consistent policy, of approving applications for direct service since such kind of service is more convenient to the traveling public than the broken trips, is more fancied than real, considering the finding that the present authorized trips are more than adequate to take care of the passenger traffic along the routes in question. Highly desirable as direct trips undoubtedly are, there would be no sense in unnecessarily increasing their number on lines already amply served by equally direct service supplemented by the local services.

The fact that respondents have dispatched trips without previous authority may call for some kind of disciplinary action. But we don't think it would be a good ground for authorizing additional trips where the Commission has found that there is already more than adequate service along the main highway and to and from communities with

easy access thereto.

It is true that subsequent to the filing of petitioner's applications respondents themselves have filed similar applications for direct service on the same lines and in those applications they allege the need for additional service. But as to that we can believe respondents' explanation at the hearing that the filing of their own applications was merely a tactical move calculated to secure for themselves, as prewar operators with a heavy investment on the Bataan line, preference in the grant of authority for additional service, should the Commission decide after hearing that there is need for such additional service.

The law, in investing the Public Service Commission with the power of supervision and control over public transportation, has also clothed it with broad discretion in the exercise of that power. With that discretion this Court is not supposed to interfere except in case of clear abuse. Such has not been shown to be the case here. What appears is that the Commission, faced with the conflict of evidence on the adequacy or inadequacy of the present service, has sought to discover the truth through an on-the-ground inspection and observation by its own agents and has, on the basis of information thus obtained, arrived at the conclusion that the additional service applied for is uncalled for because there is already amplitude, if not superabundance, in the number of authorized trips. That conclusion is amply supported by the record and is far from being the product of partiality or unfair discrimination. And it not clearly appearing that discretion has been abused or that the Commission has illegally used its powers, we have to respect its judgment and not to try to replace it with our own.

Wherefore, the decision below is affirmed, with costs against the petition.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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