

CENTRAL TAXICAB CORPORATION, PETITIONER, VS. PUBLIC SERVICE COMMISSION AND CHAMBER OF TAXICAB SERVICES, INC., RESPONDENTS.

G.R. No. L-24289. February 17, 1968

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Central Taxicab Corporation filed the present petition to review the decision of the Public Service Commission in Cases Nos. 62-6717 etc., entitled Macario A. Abad, Jr. and Ninety-Eight (98) Others, dated September 7, 1964, which decision, insofar as pertinent to this case, reads:

"After a thorough study of the evidence submitted with respect to citizenship and financial capacity of each and every applicant, it was found that not all applications could be given favorable consideration. The undersigned took into account the number of units applied for in relation to the evidence of financial capacity submitted by the individual applicant; the ability to personally handle and manage efficiently the business based on experience, and his observations of the demeanor of the applicant on the witness stand; the availability of space for garage and other particulars deemed important so as to give the public good and efficient taxicab service.

"As regards old and existing operators who filed either applications for increase of equipment or counter-applications, it was discovered that most, if not all, of them, sold part of their units to others. Under this condition, and unless otherwise compelled by exceptional circumstances, the Commission is of the considered opinion that it would be inconsistent and running counter to the natural course of things to grant their applications for increase of units after selling to others the whole or part of what they already have.

"The claim of the old operators for preference in case of grant under the 'old operators rule' cannot be sustained and looked upon with favor. In the first place, the rule is not absolute - several conditions must first be met and satisfied before a claim for priority could be favorably, entertained. Under the instant cases, it was the new applicants who first filed their applications, with the old operators claiming that there is no public necessity for the operation of additional units. It was only after sometime when they became convinced that such public need really exist that the old operators filed their own counter applications claiming priority under the said rule.

"With the foregoing criterion as a basis, the applications not included in the list of those granted are either DISMISSED for lack of interest or failure to prosecute or DENIED for failure to qualify."

Petitioner, existing operator of 88 units of taxicab and applying for additional 200 units (Case No. 62-6225) does not appear in the list of those whose applications were granted.

Contending that the denial of its application for increase of units is arbitrary, discriminatory and without legal basis, petitioner alleges, among other things that it is a taxicab operator since 1949: that its petition for increase of units, filed on October 10, 1962, was not a "counter-application", petitioner being one of the earliest applicants; that the application was pursued with zeal and interest, petitioner appearing at the hearing and adducing evidence

therein; that it was able to present sufficient evidence of its financial capacity, efficiency, experience and preparedness;[1] that although it had sold five taxicab units to one Pedro Reyes, said units were not part of its original fleet of taxicabs -- they were only acquired from another taxicab operator, the Del Monte Transportation, on August 28, 1950 for P2,000.00, and were resold to said Pedro Reyes on October 24, 1950 for the same amount of P2,000.00; that thereafter, it was able to acquire a total of 45 units from various operators, which acquisitions were all duly approved by the Public Service Commission.[2] Petitioner further assailed the legality of the decision, pointing out that it contains no specific findings of fact upon which the ruling was based. This case was submitted for decision without appellees' brief, the Public Service Commission and Chamber of Taxicab Services, Inc. having failed to file theirs, notwithstanding due requirement of this Court.

In contesting the correctness of the decision of the Public Service Commission, petitioner is actually asking this Court to review the conclusion reached by said body as to petitioner's qualification to operate additional units of taxicab. As a general rule, this cannot be done, for the qualification or disqualification of an applicant is determined by the evidence submitted to the Commission, and the latter's findings on this matter should deserve the respect of the appellate court. However, it is also true that the rule on the finality of factual findings of the Public Service Commission is not without exception. Thus, where it clearly appears that the factual findings of that body are not supported by substantial evidence, or that in reaching a certain conclusion the Commission committed grave abuse of discretion, such findings of fact may be modified or ignored.[3]

The decision now under consideration is supposed to rule on ninety-nine (99) separate applications for certificates of public service, and we find that the only portion thereof tending to provide basis for the actions taken thereon was that quoted at the beginning of this opinion. And from there, it may be gathered that in the consideration of those applications, the Commission had adopted the following guideposts or criteria: as regard new applications, it took into account the applicant's citizenship, financial capacity, ability to personally manage the business, with emphasis on experience; the demeanor of the witness on the stand, and availability of garage. With respect to old or existing operators who are applying for increase of their units, in addition to the abovementioned factors, the Commission considered whether the applicant had sold part of their units to others, and whether the petition is a "counter-application" or filed only after the new applicants had shown the existence of public need for expansion of the taxicab service.

In this connection, notice should be taken of the fact that in the decisions penned by some members of the Commission during the same period, and involving similar applications as the one at bar,[4] concurred in and signed by the Commissioner who wrote the decision now under review, it appears that it was indeed agreed among them as a matter of policy to deny the applications for increase of units of operators who have speculated and sold any number of units operated by them, or of those who have been found guilty of tampering taxi-meters or similar violations. However, in the implementation of this policy, exception was made in the case of operators who, after parting with some units, were able to acquire more (units) than those sold. They were not considered engaged in the trafficking of certificates and declared not disqualified for award of additional units.[5]

In view of the foregoing, we find petitioner's appeal to be meritorious; the denial of its application for additional units is evidently not supported by, if not contrary to, the evidence on record. The decision in dispute failed to specify for what reason or reasons the herein application was denied. It can only be conjectured, therefore, that it was so because petitioner is either not qualified or its application was not timely. But petitioner's allegations that its application was one of the earliest on file, and that it is financially capable, experienced and prepared to operate additional units, supported by evidence presented before the Commission, remain unrefuted. The explanation on the sale of the five taxicab units in 1950 and the subsequent acquisition of 45 other units by herein petitioner would also negative any charge of speculation in public service certificates, in accordance with

the Commission's own standards. Consequently, there, is justification for the conclusion that the denial of the application in this case is without legal basis and contrary to the evidence. Considering that the decision involves ninety-nine different applications it should have been desirable that the ground, no matter how brief, for the actions taken on them were given. That would have precluded any finding or even suspicion of arbitrariness or discrimination in the Commission's ruling.

Since under similar circumstances the Commission granted the P. & B. Taxicab Co. (Case No. 63-5998) ten (10) additional units, despite the fact that it had, like petitioner, disposed of some units of its own but purchased other units, we see no reason why the petitions Central Taxicab Corporation should not be allocated a number of additional units proportionate to its present operating taxicabs.

WHEREFORE, the decision appealed from, in so far as it concerns Case No. 62-6225, Central Taxicab Corporation, applicant, is reversed and the respondent Public Service Commission is directed to authorize said applicant to operate fifteen (15) additional units under the terms and conditions set forth in the decision of September 4, 1964. No costs.

Concepcion, C.J., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

[1] Exhs. F, G, G-1, H, H-1 to H-3, I, I-1 to I-15, J, J-1 to J-24, K, K-1, K-2, L, L-1 to L-12, M, N, N-1 to N-3 (pp. 48-128, PSC record).

[2] 12 units from Jose del Rosario, Jr., approved by the Commission on May 16, 1951; 5 units from Sofia V. de Paragas, approved on November 17, 1951; 5 units from Veterans Express Co., Inc., approved on November 3, 1953; 9 units from Francisco Lizaso, approved on June 8, 1953; 10 units from Cirilo Custodio, approved June 28, 1954; 4 units dropped out by Jose del Rosario, Jr. and Francisco Lizaso from their original applications were awarded to appellant by order of the Commission of February 10, 1956.

[3] Del Pilar Transit, Inc. vs. Silva, G. R. No. L-21547, July 15, 1966; Halili vs. Daplas, G. R. No. L-20282, May 19, 1965.

[4] Decisions penned by Commissioner Medina in Cases 62--4385 and 153 others, dated September 4, 1964 (Petition, Annex L); by Commissioner De Guzman in Cases 62-5220 and 39 others, dated September 7, 1964 (Annex L-1); and by Commissioner Fornier in Cases 62-4375 and 24 others, dated September 7, 1964 (Annex L-2, Petition).

[5] See Decision in Cases Nos. 62-4220, etc., dated September 1964, signed by Commissioner Medina and Associate Commissioners De Guzman, Guinto, Panganiban and Fornier (Annex L-1); and in Case 63-5998, P. & B. Taxicab Co., applicant (Annex L, page 9).

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