

**JOHNNY SORITA, ISMAEL CALDERON, EDUARDO TAGUIAM,
CONRADO ESPEJO, FELIPE VENTURA, PAQUITO CABUENA AND JOSE
B. TRINIDAD, PETITIONERS, VS. PUBLIC SERVICE COMMISSION AND
ANGEL FORNE...**

G. R. No. L-20965. October 29, 1966

Ponente: REGALA, J.

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REGALA, J.:

This case raises the issue of whether or not, under the Public Service Law, Commonwealth Act No. 146, as amended, motorboat services for passenger and freight on navigable inland rivers require certificates of public convenience from the Public Service Commission.

On July 9, 1962, respondent Angel Forneas filed with the Public Service Commission an amended application for a certificate of public convenience for the operation of water transportation (motorboats) along the Cagayan River between Masical, Amulung and Tupang, Alcala, all in the province of Cagayan, under a rate and time schedule authorized by the said Commission. The petitioners, who are themselves owners and operators of motorboats with permits and certificates of ownership issued by the Bureau of Customs and engaged in ferry and/or coastwise trade for passengers and cargoes in, among others, the line above applied for, opposed the aforementioned application on the grounds that the applicant was not financially capable to undertake the proposed venture and that the said d service was already being adequately rendered by them. Subsequently, too, the herein petitioners filed a motion to dismiss the above application on the ground that the Public Service Commission had no jurisdiction over its subject matter under Section 13(a) of the Public Service Act.

In a decision dated January 16, 1963, the respondent Commission denied the petitioner's motion to dismiss and granted the certificate applied for. The Commissioner expressly found that the applicant was legally and financially qualified for the proposed service and that public necessity and convenience demanded the same.

The petitioners contend that under Section 13(a) of the Public Service Act, Commonwealth Act No. 146, as amended, the respondent Commission has no authority to issue a certificate of public convenience for the motorboats covered by the application of respondent Angel Forneas which are, according to the said Commission, just about 2.03 net tons each. On the other hand, the herein respondents maintain that exemption from a prior certificate of public convenience granted by the said section is exclusive to vessels of more than three tons devoted to interisland service and not inland passenger transportation service over municipal rivers.

The provision of the Public Service Act which the petitioners claim denies to the respondent Commission the authority to issue certificates of public convenience for motorboat services on navigable inland rivers reads as follows:

"Sec. 13(a) The Commission shall have jurisdiction, supervision, and control over all public services and their franchises, equipment, and other properties, and in the exercise of its authority, it shall have the necessary powers

and the aid of the public force: Provided, That public service owned or operated by government-owned or controlled corporations shall be regulated by the Commission in the same way as privately-owned public services, but certificates of public convenience or certificates of public convenience and necessity shall not be required of such corporations: And provided, further, That it shall have no authority to require steamboats, motorships and steamship lines, whether privately-owned or owned or operated by any Government controlled corporation or instrumentality to obtain certificate of public convenience or to prescribe their definite routes of service."

It impresses us as relevant that the above-quoted section, relative to the issue under consideration, speaks alone of "steamboats, motorships and steamship lines." In the next succeeding paragraph in which the same section defines the term "public service,"[1] it speaks of the same subject matter and yet employs different descriptive denominations, to wit: "steamboat or steamship line, pontines, ferries, and water craft." (Sec. 13(b) Evidently, therefore, the law contemplates to exempt from the requisite certificate of public convenience not every species or kind of water vessel but only such as would properly fall within the class of "steamboats, motorships and steamship lines." Otherwise, it would not have been so particular with the above distinction.

In drawing the line between "steamboats, motorships, and steamship lines" on one side and "pontines, ferries, and water crafts" on the other, Congress apparently means to accept the view that "boat, craft and water craft" are usually applied to small vessels, while larger vessels are usually referred to by the terms "steamer, steamship or vessel." (The Saxon, D.C.S.C. 269, 641; 40 Words and Phrases 215) and that in its generic sense "ship" means any seagoing craft larger than an undecked boat. (Swan v. U.S., 19 Ct. Cl. 51). In fact, this Court has previously construed the above specification of "steamboats, motorships and steamship lines," as used in Section 13(a) of the Public Service Act, as referring alone to vessels of "considerable tonnage" and employed to sea service "involving more or less great distances and over more or less turbulent and dangerous waters of the open sea." (Javellana et al. v. Public Service Commission, 98 Phil. 964; Jugueta et al, v. Public Service Commission, G. R. No. L-12044, May 20, 1959). For really, "steamboats, motorships, and steamship lines," as the said terms are accepted in Common and commercial parlance, refer only to sea vehicles engaged in coastwise or interisland service.

In the premises, therefore, motorboats and water crafts intended for and actually devoted to inter-municipal transportation service, plying on inland water routes like municipal rivers and channels, must be set apart from the vehicles specified in Section 13 (a) which, by their very size, nature and purpose, are incapable of navigating on municipal rivers.

To be sure, then, this Court reads Section 13, paragraph (a) of the Public Service Act, in relation to paragraph (b) of the same section, as providing that when the vessel is of a tonnage and engineering properly accepted for steamers, steamships and liners, and the same is essentially for and actually devoted to inter-island service, it is exempt from securing from the Public Service Commission a prior certificate of public convenience. Otherwise, when it is of a size and construction as to be fit merely for river navigation, it must first secure from the said Commission the above certificate before it may set about as a common carrier. This does not seem to us to be an entirely new rule considering that as far back as some fourteen years ago, in the case of Municipality of Gattaran v. Elizaga, 91 Phil. 440, decided May 28, 1952, we held that –

"x x x When a private party, winner in a public bidding conducted by the Municipal Council, like Fruto Elizaga, get the permit to operate a municipal ferry from the municipality, before he can operate, he must first obtain a certificate or permit from the Public Service Commission which upon granting it will fix the rates to be charged by him as well as specify the kind of equipment to be used by him for the comfort, convenience and safety of the public using the ferry. x x x." (Underscoring supplied)

Apart from the legislative intention apparent from the text of Section 13 (a) of the Public Service Act -- this Court

has gone through the records of the proceedings which attended the passage of the said law and its amendments but found no material or documentation of a debate on the said section - still another consideration commends itself to the conclusion we have reached. Inasmuch as judicial notice may be held of the fact that the Bureau of Customs does not have adequate offices or agencies to oversee watercrafts on every inland or municipal rivers, all its resources and personnel being devoted to the control, regulation and supervision of port or pier affairs, public interest stands much to gain from the requirement that passenger motorboats on inland municipal rivers should first secure from the Public Service Commission due authorization to so operate as a common carrier. For, otherwise, they would be free from any effective government supervision. On one hand, the Bureau of Customs is more than laden with its duties at the ports; on the other, the Public Service Commission, without the certificate of public convenience, can hardly exact discipline from the motorboat operators. The power of the said Commission to demand compliance with its rules and regulations for the safety and convenience of general public is potent and real only to the extent that it is conceded the power to cancel or revoke the certificate of authorization of every public service. Exempted from such certificates, therefore, motorboats operators would be beyond the said Commission's sphere of effective discipline.

The attack on the respondent-applicant's financial capacity cannot be seriously entertained in this appeal. The finding of the Public Service Commission thereon is essentially a factual determination which, in a host of cases, this Court has said it will not interfere unless patently unsupported by evidence. A review of the records of this case does not warrant such an interference.

FOR ALL THE FOREGOING, the decision appealed from is hereby affirmed. No pronouncement as to costs.

Concepcion, C.J., Reyes, J. B. L., Dizon, Makalintal, Bengzon, J. P., Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

[1] 9.5pt; font-family: Verdana;"> Section 13(b) The term "public service" includes every person that now or hereafter may own, operate, manage, or control in the Philippines, for hire or compensation, with general or limited clientele, whether permanent, occasional or accidental, and done for general business purposes, any common carrier, x x x steamboat or steamship line, pontines, ferries and water craft, engaged in the transportation of passengers or freight or both, x x x x x x x x x x x ." (Underscoring supplied)

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