

LAGUNA TAYABAS BUS CO., INC., PETITIONER, VS. JOSE SOTOMAYOR, RESPONDENT.

G.R. No. L-22067. February 10, 1968

Ponente: DIZON, J.

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DIZON, J.:

Petition filed by the Laguna Tayabas Bus Co. for the review of the decision of the Public Service Commission in PSC Case No. 63-2723 granting respondent Jose Sotomayor a certificate of public convenience to operate three (3) jitneys (PUJ) for passengers and freight on the line Pagbilao (Quezon) --- Lucena City.

Petitioner alleges that the decision under review is void because it was rendered by only one commissioner who considered it as an "uncontested" case when, in fact, petitioner had timely filed its opposition to Sotomayor's application, on the ground that it was entitled to protection and preference for being a prior and established operator on the line applied for; that such being the case, the petition should have been heard and decided by a division of the Commission, as provided for in Section 3 of Republic Act No. 2677 as amended.

It appears that respondent's application for a certificate of public convenience to operate a jitney service (PUJ) for passengers and freight on the Pagbilao-Lucena line was really opposed by petitioner who claimed that, as a prior operator on the affected line, it should be given a first opportunity to provide whatever additional service was needed. As a matter of fact, it also appears that two other established operators on the same line - Pelagio Glorioso and Florentina de Pala - filed written oppositions to respondent's application.

Subsequently, however, all said oppositors filed their own separate applications to operate additional units on the line in question. Considering all these applications - including Sotomayor's - as "uncontested" cases, the hearing officer, Associate Commissioner Alex F. de Guzman, rendered favorable separate decisions.

The lone issue now, therefore, is whether the application of respondent was an "uncontested" case.

It is obvious that petitioner's contention is mainly based on a technicality.

The financial capacity of Sotomayor and the existence of public necessity for the proposed jitney service involved in the latter's application are not disputed by petitioner. In fact, the existence of such public necessity is proven by its own application for a new service on the same line, and was established by its evidence in connection with its own application mentioned heretofore (PSC Case No. 63-4091).

Upon the other hand, it is likewise clear that neither petitioner nor the other two established operators on the same line, namely, Pelagio Glorioso and Florentina de Pala, showed interest in increasing their units in service on the line aforesaid only after Sotomayor had filed his application, in spite of the fact that they must have, been aware of the existence of public need for such additional service. This does not speak of their interest in giving adequate service to the public affected thereby.

Lastly, in its own application (PSC Case No. 63-4091), petitioner originally proposed eight additional units but

later reduced them to four, these four units to come from its own reserve units authorized in the order of the Commission in PSC Case No. 63-395. This can only show that petitioner did not wish or was not in a position to fully cover and satisfy the needs of the affected riding public.

IN VIEW OF THE FOREGOING CONSIDERATIONS, We hereby affirm the decision of the Public Service Commission appealed from. With costs.

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

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