

CEBU TRANSIT COMPANY, INC., PETITIONER, VS. THE PUBLIC SERVICE COMMISSION, RESPONDENT.*G.R. No. L-788. October 30, 1947*

Ponente: PARAS, J.

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The petitioner, Cebu Transit Company, Inc., operated a taxicab service in the City of Cebu and its suburbs under a certificate of public convenience issued in its favor by the Public Service Commission in 1931. Due to the destruction and loss of the records of the Commission consequent upon the last war, the petitioner, under date of December 21, 1945, filed an application (Case No. 4502), for the reconstitution of its certificate of public convenience. After hearing, the Commission rendered a decision dated May 13, 1946, directing the issuance to the petitioner of a reconstituted certificate containing, however, the new condition that the same "shall be valid and subsisting only for a period of fifteen (15) years." The petitioner filed a motion for reconsideration in which it was contended that the condition "was imposed without any evidence before this Honorable Commission to reasonably support such limitation." The motion was denied after a hearing at which counsel for the petitioner did not present any evidence. Hence this appeal.

It is not pretended that the Commission has no power to impose the condition in question upon certificates issued prior to June 8, 1939, the date of the approval of Commonwealth Act No. 454, which amended section 15 of Commonwealth Act No. 146 in a sense authorizing the Commission to prescribe "as a condition for the issuance of the certificate * * * that the certificate shall be valid only for a definite period of time." But even if the petitioner does make such pretense, we need only refer to the decision in *Pangasinan Transportation Co. vs. Public Service Commission* (70 Phil., 221), upholding the power of the Commission on the ground, among others, that "statutes enacted for the regulation of public utilities, being a proper exercise by the state of its police power, are applicable not only to those public utilities coming into existence after their passage, but likewise to those already established and in operation."

Petitioner's principal criticism is addressed to the alleged total absence of evidence reasonably supporting the appealed decision in so far as it limits the duration of its reconstituted certificate to fifteen years. In answer, it may be pointed out that the petitioner itself presented in evidence the decisions of the Commission dated February 4, 1931, December 19, 1933, and January 31, 1939, regarding the issuance of petitioner's original certificate, its authorization to increase its equipment and to reduce its rates, and the design and color of its taxicabs. The Commission can thus be deemed to have considered the facts appearing in said decisions, in connection with the results of its own observations and investigations which ripened into the issuance by the Commission of its memorandum of July 26, 1939, approved by the Secretary of Justice on August 23, 1939, fixing the duration periods for various public services, fifteen years being thought proper for taxicab services. As held in *Manila Yellow Taxicab Co. vs. Araullo* (60 Phil., 833). "The Public Service Commission in the exercise of its quasi-judicial and administrative functions has the power to take into consideration the result of its own observation and investigation of the matter submitted to it for consideration and decision, in connection with other

evidence presented at the hearing of a case."

The case before us is not one in which the petitioner did not have an opportunity to be heard or to present evidence, because when its motion for reconsideration was heard,—and that was the suitable stage wherein it could show the impropriety of the period of fifteen years by corresponding evidence—its counsel merely manifested that "we submit our case on the basis of our motion for reconsideration." We take it that the petitioner never claimed that it can hold its certificate in perpetuity or beyond fifty years, the maximum period prescribed in Commonwealth Act No. 146 and in the Constitution. Consequently, the petitioner could only have contended that its certificate should be made valid for a period longer than fifteen, but not exceeding fifty years, and it could have presented the necessary evidence at the hearing of its motion for reconsideration. Moreover, considering that the period fixed by the Commission started only from 1946, the duration of petitioner's certificate, including the period subsequent to its issuance in 1931 up to 1945, covers a total of nearly thirty years.

The appealed decision is therefore affirmed, and it is so ordered with costs against the petitioner.

Moran, C.J., Pablo, Perfecto, Hilado, Bengzon, Briones, Padilla, and Tuason, JJ., concur.

CONCURRING

FERIA, J.:

I concur in the result.

The petition of the appellant in the present case is for reconstitution of the certificate of public convenience to operate a taxicab service, and for renewal or replacement of its equipment consisting of eleven taxicabs which were lost during the war. One of the conditions imposed upon the petitioner by the decision which granted the original certificate dated February 4, 1941, Exhibit A, is that the appellant can not replace its equipment without the authority of the Commissioner; and the second and fourth paragraphs of section 15 of Commonwealth Act No. 146, as amended by Commonwealth Act No. 454, read as follows:

"The Commission may prescribe as a condition for the issuance of the certificate provided in the preceding paragraph that the service can be acquired by the Commonwealth of the Philippines or by any instrumentality thereof upon payment of the cost price of its useful equipment, less reasonable depreciation; and likewise, that the certificate shall be valid only for a definite period of time; and that the violation of any of these conditions shall produce the immediate cancellation of the certificate without the necessity of any express action on the part of the Commission.

"The foregoing is likewise applicable to any extension or amendment of certificates actually in force and to those which may hereafter be issued, to permits to modify itineraries and time schedules of public services and to authorization to renew and increase equipment and properties." (Italics ours.)

Under the above quoted provisions, the Commissioner may impose as a condition for the issuance of a certificate of public convenience that the certificate be valid for a definite period of time. Periods of validity of each type of certificate of public convenience are fixed by the Public Service Commission in accordance with a memorandum of July 26, 1939, prepared by the Commission and its experts, and approved by the Secretary of Justice on August 23, 1939, which fixes the periods of validity as follows:

"TPU Service 25 years

Taxicab service 15 years

Autocalesa service 10 years

PU service 15 years

Garage service 15 years

TH service 15 years

TG service 15 years

Wharfs or docks 25 years

Shipyards 25 years

Marine repair shops 25 years

Warehouses 25 years

Canal and irrigation systems 50 years

Ice plants and Ice refrigeration plants 15 years

Public services operated by Municipal or Provincial Governments 50 years

Marine railway, subways, electric, telephone, sewerage, wireless, gas, water

Life of certificates, same as that fixed in the franchise."

Railroad

Street railway service

Tramways

Though the petitioner was originally granted a certificate of public convenience in 1931, the above quoted provisions of law and schedule of periods of validity were applicable and applied to the appellant when it applied for reconstitution of its original certificate and renewal or replacement of its equipment. This Court in the case of *Pangasinan Transportation Co. vs. Public Service Commission* (70 Phil., 221), held among others, that "statutes enacted for the regulation of public utilities, being a proper exercise by the state of its police power, are applicable not only to those public utilities coming into existence after their passage, but likewise to those already established and in operation."

Appellant contends that according to law, there must be a hearing before the Commissioner may determine and decide whether, according to the evidence, the public interest will be promoted by limiting the period of validity imposed upon a certificate of public convenience to less than fifty years. And the appellant was not given a hearing. This contention is untenable. The limitations or periods of validity of certificates of public convenience set forth in the memorandum above quoted are based on experience and training of engineers, accountants and technical men in the service of Public Commission, and not being arbitrary, the decision of the Commission which applies therein provided to the present case, should not be disregarded by this Court (*Manila Electric Co. vs. Reyes*, G. R. No. 41988).

The decision of this Court in the case entitled "*the Pangasinan Transportation Co. vs. Public Service Commission*," G. R. No. 47065 is not applicable to the present case, because the question as to power of the Commission to impose the limitation to 25 years of the life of the certificate or public convenience in that case, arose and was decided before the memorandum which fixes the periods of validity of certificates of public

convenience, was approved by the Secretary of Justice and adopted and applied by the Commission. Before said adoption and application, as there was no limitation on the discretion of the power of the Commission as to the period of validity, provided it does not exceed the maximum period of 50 years, it was necessary to have a hearing in order that the Commission might determine the period of validity which would promote public interest. After the application of said memorandum as a standard to be followed by the Commission, such hearing is no longer necessary, because it is to be presumed that the periods of limitation set forth therein promote the public interest in a proper and suitable manner. The contention of the appellant would be tenable had the Commission imposed a period of limitation less than or in excess of 15 years without a hearing, for especial circumstances should be shown in a hearing" to justify the nonapplication of the already fixed period of validity of 15 years applicable to all taxicab service. After all, before the expiration of the period of validity of its certificate, the appellant may apply for an amendment or extension thereof, and show that public interest would be promoted by amending or extending the period of validity of its certificate.

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