

JOSE DE LA PAZ, PETITIONER, VS. MD TRANSIT AND TAXICAB CO., INC., RESPONDENT. FORTUNATO F. HALILI, PETITIONER, VS. MD TRANSIT AND TAXICAB CO., INC., RESPONDENT.

G.R. Nos. L-13803 and L-13400. May 23, 1960

Ponente: LABRADOR, J.

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LABRADOR, J.:

Jose de la Paz in G. R. No. L-13803 and Fortunato F. Halili in G. R. No. L-13400 seek a review of a judgment of the Public Service Commission dated December 17, 1957, deciding Cases Nos. 102656 (entitled MD Transit and Taxicab Co., Inc., applicant), 103916, etc. The decision sought to be reviewed herein and reversed grants a certificate of public convenience to the respondent MD Transit and Taxicab to operate 5 auto trucks from the Bonifacio Monument, Grace Park, thru Samson Street, Highway 54, Ayala Boulevard and Buendia Streets, to the intersection of Buendia Avenue and Taft Avenue, Makati, Rizal.

The question presented to Us is, Is there a public need for the direct line applied for by the respondent transportation company.

Applicant presented documentary and testimonial evidence. The documents submitted are petitions, Exhibits D to R, of several manufacturing companies for the operation of the line applied for. The testimonies of Miguel Heras, Manager of the respondent company, and Gerardo Occidental, a laborer working in California Manufacturing located at Buendia, Makati, Rizal were presented. Briefly stated their testimonies are as follows:

Miguel Heras said that the proposed line will serve about 2,000 employees of the factories along Buendia Avenue, such as Yupangco, Sherwin Williams, Breeding Industries of the Philippines, Metro Drug, Squibb, Aircon, Cafe Puro, Stalco, American Wire and Cable Company, Synclair, etc.; that he had on various dates made personal observations of the traffic at the Bonifacio Monument and at Buendia Avenue; that many of the employees live in Grace Park, near the Bonifacio Monument, the Philippine-American compound, Cubao, Guadalupe, Project 6, Bago Bantay, etc., which are all along Highway 54; that only the Marikina Valley buses owned by oppositor Jose de la Paz operate directly from the Bonifacio Monument to Baclaran via Highway 54, but do not pass Buendia Avenue; that these employees coming from Grace Park have to ride to Quiapo first, then from Quiapo to the corner of Taft and Buendia Avenues, and from there take a jeepney to their places of employment, and that they follow the reverse route in going home; that the factories are about 6 kilometers from the intersection of Highway 54 and Buendia Avenue; that he has received written requests for the operation of the new line from several companies; that there are about 35 auto-calesas operating from the corner of Taft Avenue and Buendia Street to the factories.

Gerardo Occidental declared that he had worked in the California Manufacturing for over 1 year; that coming from his house at Samson Road near the Bonifacio Monument, he has to take a jeepney to Quiapo, then from Quiapo, take a Super Transit to Buendia corner Taft Avenue and from there ride in a jeepney to the place he is working; that he follows the reverse route in going home, and that he spends P0.80 a day for fare; that he works at

7:00 a.m., but he had to start at home at 5:30 a.m. to be on time; that there is no other means of transportation coming from his house to his place of work, except through Quiapo.

The oppositors, on the other hand, presented the reports of the two Commission agents, the data of employees working in the factories along Buendia issued by the Bureau of Labor (Exhibits 8-12), photographs of jeepneys operating along Buendia Avenue, etc. In addition they have presented several witnesses, whose testimonies are briefly stated as follows:

Ambrosio Salmon, agent of the Public Service Commission, testified that he with another agent, V. Resurreccion, checked up volume of traffic in Bankal, Makati, Rizal, from December 15 to 24, 1956, and in Barrio Kangkong, Quezon City (near the Bonifacio Monument), from January 10 to 15, 1957, to determine passenger load of buses . coming from Bonifacio Monument going to Baclaran via Highway 54; that they prepared a report of their checking, Exhibits 1 and 2; that only the Marikina Valley with 10 units operate directly from the Monument to Baclaran; that the conductor reported the number of passengers while Resurreccion counted the passengers; that the average load on December 15, 1956, from 6:00 AM is 31.5%, or 19 passengers, and the average load is obtained by dividing the number of passengers by the total number of trips and the result divided by the registered passenger capacity of the buses.

Pio Santos, inspector of the Bureau of Labor, presented the data of employees from the Bureau of Labor (Exhibits 8-12).

Lorenzo de la Peña, driver, residing at Makati, Rizal, declared that he operates an auto-calesa belonging to Teodoro Reyes from the corner of Buendia-Taft Avenues to Pasong Tamo, San Lorenzo Village and Highway 54; that he is president of the Buendia Owners and Drivers Association, and that there are 35 auto-calesas operating at the junction; that he sometimes have only 1 or 2 passengers at the junction to be carried to the factories or to any place along Buendia Avenue; that most of his passengers come from Parañaque, Pasay and Las Pinas; that no other TPU operators operate along Buendia and Highway 54 from Forbes Park. He presented pictures of the auto-calesas.

Benjamin Faustino, special watchman at the piers, residing at 108 Turconi St., Makati, Rizal, declared that he never experienced dearth of transportation, but he admitted he leaves his house at 5.00 PM and returns at 7:00 AM every day, except Sundays.

Estelito Lorello, driver, residing at Leveriza, Pasay City, and Eduardo Tarape, conductor, residing at Perlas, Pasay City, declared they were driver and conductor, respectively, of the Master Liner sometime in 1954 or 1955; that the Master Liner did not last one month due to lack of passengers. Both admit, however, that they stopped working along the line since then.

Ricardo de Leon, inspector at large of the Halili Transit, made observations of the volume of passengers in the junction of Highway 54 and Ayala Boulevard; that he observed that in the morning at around 6 to 8:00, there are only a handful of passengers getting off at the junction; that during the rush hours (6 to 8 AM) all buses are loaded, but thereafter, only around 10 to 15. On cross-examination, he admitted that there are times, sometimes 2 or 3 days, when he cannot inspect the traffic along Highway 54; that passengers coming from Bonifacio Monument do not get off at the corner of Ayala Boulevard and Highway 54 because they have to take their jeepneys at the corner of Taft-Buendia Avenues.

Pedro Calambra, inspector of the Marikina Valley Bus Company, declared that he inspects the buses of the company coming from Bonifacio Monument going to Baclaran from 6:00 to 12:00 AM., then from 3:00 to 7:00 PM; that the passenger load is about 30 during rush hours and thereafter, from 15 to 19 passengers only; that the

Halili Transit operates from Project 4 to Baclaran via Highway 54, and aside from these buses there are more 30 jitneys operating along Highway 54; that the Medina Transit, with trip interval of 15 minutes operate from Forbes Park to Manila via Buendia Avenue.

Jose de la Paz, operator of the Marikina Valley transportation company, declared that he started operating with 5 units from the Bonifacio Monument to Baclaran via Highway 54, but increased it to 10 units on December 12, 1956; that he observed that during rush hours from Bonifacio Monument his buses usually carry from 8 to 12 passengers and average of 30 to 40 passengers per trip, dropping and picking; that during off-rush hours the buses usually start with 2 or 3 passengers at the Monument and picks up to 10 or 12 at Balintawak, and average 12 to 22 passengers every trip; that the distance from the Bonifacio Monument to the junction of Ayala Boulevard and Highway 54 is about 20 kilometers; up to Baclaran is 24 kilometers; from the junction to the inter-section of Taft and Buendia Avenues is 4 kilometers, and from the junction to the factories is 2 kilometers; that Medina Transit and jitneys operate along Buendia Avenue. He admits however that there is no direct line from Highway 54 to Camp Nichols; that there are about 25 factories along Highway 54 and 15 to 17 along Buendia Avenue; that he asked in December, 1956 for an additional 5 units to operate along the line; that there is no direct line from Bonifacio Monument to Buendia, by way of Taft Avenue or by way of Highway 54; that the employees had to ride to Quiapo or to Plaza Sta. Cruz, then from there ride again to the corner of Taft-Buendia Avenues, and from this point ride again to their place of work; that there are cases during rush hours when his buses are loaded; that after he operated the line the number of jitneys operating thereon have increased; that those riding from Cubao or Project 4 have to get off at the intersection to Ayala Boulevard and Highway 54 and get another ride; that there are houses along Buendia street.

Upon the above evidence, the Public Service Commission found public necessity for the operation of the line and granted the respondent company authority to operate 10 units.

The Supreme Court has time and again held that if the decision of the Public Service Commission is supported by the evidence, the decision should not be disturbed on appeal (*Inchausti Steamship Co. vs. Public Utility Commissioner*, 44 Phil. 363; *Raymundo Trans. Co. vs. Cervo*, 91 Phil., 313; *Padua vs. Ocampo, et al.*, G. R. No. L-7579, Sept. 17, 1955; *Laguna Tayabas Bus Company vs. M. Ruiz-Highway Transit*, 107 Phil., 143).

The Public Service Commission found the following facts; Buendia has grown into a commercial and industrial center with the construction of not less than 32 factories, employing about 2,000 laborers. Most of these laborers live in Malabon, Grace Park and in small communities along Highway 54. There is no direct line from the Bonifacio Monument to the factories, so that the laborers have to ride three times daily to arrive at their place of work. The line of oppositor Jose de la Paz, which is from Bonifacio Monument to Baclaran, and of the other oppositor, Fortunato F. Halili, which is from Project 4 to Baclaran via Highway 54, do not reach the factories along Buendia street. It is obvious that a direct line would minimize the transportation expenses of these laborers and would greatly add to the convenience of the riding public. The Commission also considered the fact that there are government offices transacting business with the public along Highway 54, such as the Motor Vehicles Office, the Quezon City Hall, Camp Crame, Camp Murphy and others, and there are also places of business and recreation in Cubao; that there are also about 25 factories scattered along Highway 54 and these establishments employ hundreds of employees and laborers; that the novenas on Wednesdays in Baclaran have constantly attracted the devout and pious from Malabon, Caloocan and Quezon City; and that there are employees living along Highway 54 who take the buses along said road in going to their places of work in Manila, and all these people have to be served by the buses and jitneys operating along the line. The people going to Buendia may have preferred to take other lines, instead of taking Highway 54.

The above considerations made by the Commission justify the approval of the new line granted the respondent.

The report of the checkers of the volume of traffic along Highway 54 does not argue against the grant of the new line because, as shown by the evidence of respondent, employees working on factories in Buendia Street living around and beyond the Bonifacio Monument, prefer to ride thru the city, making various transfers, and do not ride in the buses passing Highway 54, perhaps not finding it convenient to transfer from said buses at the Ayala Boulevard—Highway 54 intersection. But if the new line is established, more passengers would be attracted and those passing thru the city would travel along the new line instead.

We are fully satisfied that there is substantial evidence submitted to prove the public need of the new line approved, because it would greatly enhance the convenience of many of the laborers and employees of the new industrial and commercial establishments on and close to Buendia Street. The decision of the Commission, therefore, is hereby affirmed, with costs against each of the petitioners. So ordered.

Paras, C. J., Bengzon, Bautista Angelo, Concepcion, and Gutierrez David, JJ., concur.

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