

RAMON J. GUICO, PETITIONER, VS. ESTATE OF FLORENCIO P. BUAN, OPPOSITOR AND RESPONDENT.

G.R. No. L-9769. August 30, 1957

Ponente: REYES, A., J.

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REYES, A., J.:

On December 6, 1954, Ramon J. Guico applied for a certificate of public convenience for the operation of a bus service on the following lines:

Bangued (Abra)-Manila and vice versa;
Laoag (Ilocos Norte)-Manila and vice versa;
Vigan (Ilocos Sur)-Manila and vice versa;
Aparri (Cagayan)-Manila via Claveria and vice versa.

At the hearing, however, the last, i.e., the Aparri-Manila line was dropped from the application.

On the 17 of the same month, the Estate of Florencio P. Buan, which was already operating on the lines applied for, on its part asked for authority to run additional trips on those lines and later filed, its opposition to Guico's application.

Equally opposed by the other transportation companies affected—among them the Manila Railroad Company and the Pangasinan Transportation Company—the two applications were, by agreement of the parties, heard in joint trial. And the Commission having found after hearing that there really was need for more trips on the lines covered by the applications, albeit the need was not such as to warrant the operation of all the trips proposed by the two applicants, it authorized an additional 11 round trips a day, being of the opinion after going over the evidence and its own records that those 11 trips, distributed as follows: 4 on the line Laoag-Manila, 5 on the line Vigan-Manila and 2 on the line Bangued-Manila, would provide the additional service needed by the public.

In choosing, however, the operator that was to run the additional trips, the Commission expressed preference for the Estate of Buan as the one with the means and the requisite capacity and experience to maintain the same and also because, as the authorized operator on the lines, it should under the doctrine of protection, be given opportunity to provide the additional service that had been found to be needed. All of the additional trips authorized were therefore, adjudged to the said Estate.

Not satisfied with the decision, the applicant Guico brought the case here for review.

As stated, the Commission recognizes the need for more service on the lines in question but after going over the evidence and its own records concludes that 11 round trips a day should suffice. Petitioner disputes this conclusion and claims that, on the basis of the evidence presented, more trips should have been authorized. We consider the question thus raised factual and find no justification for revising the Commission's estimate, the same not being without support in evidence. In this connection we have to give recognition to the fact that the number of trips that would be required to endow a bus line with adequate service is something that cannot be determined

or estimated with precision. It is Subject to many variables and, too often, parties base their estimates on the observation and testimony of more or less interested witnesses. On the other hand, the Commission, which exercises supervision over these public utilities and has, besides, ready access to information contained in its own records, of which it may take judicial notice, is peculiarly in a position to appraise the needs of any given line and form a fair estimate as to the number of trips necessary to meet those needs. In the circumstances, we should do well to defer to the judgment of the Commission in that regard and refrain from interfering with the exercise of its discretion except where it clearly appears that such discretion has been gravely abused. After going over the record we do not feel that the present case calls for such interference.

It is contended, however, that it was not right for the Commission to adjudge all of the authorized additional trips to respondent, it being claimed that the latter has no certificate of public convenience for the line Vigan-Manila; that petitioner should have been given the preference because his application was filed ahead of that of the respondent; and that it was petitioner's evidence rather than respondent's that proved the need for additional service.

It may be true, as claimed, that respondent has no certificate of public convenience exclusively for the line Vigan-Manila alone. However, there is no disputing the fact that respondent has a certificate for the line Aparri-Manila via Claveria and Vigan, and protection of this line should extend to all of its parts, including the portion Vigan-Manila on which, according to the Commission, respondent is authorized (presumably under the same certificate) to run three round trips daily, an arrangement which virtually makes Vigan an intermediate station or terminal for the authorized line Aparri-Manila.

Respondent's right to protection as an established operator on the lines applied for is not to be defeated by mere priority in the filing of the application of the newcomer. Note must especially be taken of the fact that the lines—Laoag-Manila, Vigan-Manila and Bangued-Manila are hundreds of kilometers long and, according to the Commission, require new and well-built trucks and an operator with ample means, such as the respondent, if a regular and continuous service is to be maintained.

The Commission has also observed that the small operators on these lines have not been operating regularly so that their services have been unreliable. On the other hand, the Commission has found that the respondent has been operating since 1952 and has maintained service regularly and in accordance with the terms of its certificate. It says:

"* * * It appears that applicant Estate of Buan has been operating on these lines since 1952 and that it has maintained its service regularly and in accordance with the terms of its certificate, and such being the case it should be given the opportunity to provide the necessary additional service in preference to another who has no authority or certificate to operate on the lines involved. Furthermore, applicant Estate of Buan, according to the evidence, has the experience, trained personnel and capital necessary to undertake a bus service of this nature which will require not only a big investment to start the service but the financial capacity to maintain the service regularly, to replace worn-out equipment and to answer for obligations to the public."

The charge that respondent has abandoned its trips on parts of the line Vigan-Aparri does not necessarily speak ill of respondent's service considering the explanation given that the abandonment was due to the bad condition of the road to Aparri, and, moreover, the alleged abandonment is on the line excluded by applicant from his application.

Petitioner is not necessarily entitled to preference just because, as he alleges, it was his evidence, rather than respondent's, that established the fact that there was still need for additional service. Whose evidence it was that proved such need is not important. What is important is whose operation would best subserve the public interests.

On that score we find no sufficient justification for not respecting the opinion of the Commission that the additional service in this case could best be operated by the respondent.

In view of the foregoing, the decision under review is affirmed, with costs against the petitioner.

Paras, C, J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L.. Endencia, and Felix, JJ., concur.

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