

MALATE TAXICAB & GARAGE CO., PETITIONER, VS. PUBLIC SERVICE COMMISSION, ET AL., RESPONDENTS.*G.R. No. L-2877. April 26, 1951*

Ponente: TUASON, J.

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This is a petition to review a decision of the Public Service Commission on applications by pre-war taxi operators for an increase of equipment and by post-war taxi operators for both such increase and regular certificates of public convenience in lieu of temporary certificates which theretofore had been issued to them. These applications having been heard jointly, the Commission authorized an increase of 125 units for five pre-war operators, 399 units for 78 post-war operators and 15 units for 8 new operators, or a total of 539 units. The allocations to pre-war operators were thus distributed: to Francisco Benitez 10, in addition to 40 he was already operating; to Malate Taxicab & Garage Co. Inc. 15, in addition to 185; to Amador D. Santos, 60, in addition to 90; and to Jose F. Zamora 40, in addition to 160.

Malate Taxicab Company, the only applicant which has appealed, prefaces its petition for review with the admission that "the decision has fairly established the actual need of increase of equipment due to the present demand," and says that the only issue involved is "whether it (Applicant) is entitled to increase its equipment by adding 115 new units (which it applied for) to its present equipment." But in its brief it assails the increase of post-war operators' equipment and the granting of permanent certificates of public convenience to them.

On the expediency and justice of allowing post-war operators permanent certificates, the findings of the Commission may be cited as convenient background. Says the Commission, "After liberation in 1945, the Pre-War operators, upon resumption of service, operated only a very small portion of their pre-war equipment, which was insufficient to meet the demands of the traveling public. In order to remedy the situation, the Commission issued certificates of public convenience which were temporary in nature and good only up to" December 31, 1948, to operate taxicab services within the City of Manila and neighboring municipalities." "In spite, however, of several extensions of term granted to the pre-war operators to complete their pre-war equipment, the last extension having expired on September 30, 1948, only six of them were able to do so," one of them being the Malate Taxicab Company.

It would seem a matter of simple justice, in the light of their past performance, of the enormous increase of population of Manila and neighboring cities and municipalities, and of the encouragement given them by the Commission, thank to the failure or inability of the pre-war operators to supply normal needs, that the post-war operators should not now be left in the lurch. They had 'answered the call of service for the convenience of the public,' at a time when, in the words of the appellant, "the supply (of cars and taxi meters) was very meager and limited," when "everything was priced at a premium," when "new cars could be obtained only in the so-called Black Market." Whatever the reasons for the pre-war operators' refusal or inability to resume full operation during the acute short-age of transportation facilities, the investments of the post-war, small operators deserved protection, at least as much as those who claim to have lost heavily as a result of the war. At the most, the

Commission does not appear to have acted arbitrarily in issuing regular certificates of public convenience to these operators.

Whether the allocations were unfair and should have been done differently is a matter which it is well nigh impossible for this Court to consider. How the increase should have been apportioned, we are not informed and we are not in a position to determine intelligently. If any operators got more than was proper, such operators have not been named, nor is it stated how much increase they should have been granted. This matter is a highly complex one necessitating consideration of facts and circumstances beyond those revealed by the testimony of witnesses and the arguments of counsel. It is hardly necessary to call attention to the fact that the allotments of cars necessarily depend upon numerous factors some of which transcend the record presented for review. From the facts and circumstances at hand, there is no warrant for holding that the Commission has stepped beyond the bounds of reason and equity. The Commission has taken into consideration the result of its own observation and investigation besides the evidence.

As matters now stand, the only feasible remedy of Malate Taxicab Company would be to make a new application for an increase of its equipment instead of forcing a readjustment of the general increase already authorized and allocated. The decision complained of has not foreclosed the step thus indicated, and such step would have the advantage of focusing on the question of the expediency and reasonableness of limiting to 200 the maximum number of units of each operator's equipment, which seems to be a policy adopted but not expressly stated by the Commission. After all, the main interest of the appellant is to obtain an increase of its own fleet of cars, as we gather from its formulation of the issue in its application for review.

The appealed decision or order is affirmed with costs of the appeal against the appellant.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Montemayor, Jugo, and Bautista Angelo, JJ., concur.

Tuason, J., I certify that Mr. Justice Reyes voted to affirm the decision.

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