

PANGASINAN TRANSPORTATION CO., INC., PETITIONER, VS. F. F. HALILI AND ASSOCIATE COMMISSIONER, FELICIANO OCAMPO, AS COMMISSIONER, AND QUINTIN PAREDES, JR., AS ASSOCIATE COMMISSIO...

G.R. Nos. L-6075 and 6078. August 31, 1954

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is an appeal by way of certiorari against a decision of the Public Service Commission dismissing the complaint of petitioner in Cases Nos. 24817 (regular certificate of public convenience along the Agno (Pangasinan)-Manila line) and 45386 (temporary certificate of public convenience along the Bolinao (Pangasinan)-Manila and Sta. Cruz (Zambales)-Manila lines) of said Commission.

Petitioner prays that the certificates of public convenience issued in favor of respondent Fortunato F. Halili in the above-mentioned cases be cancelled for the reason that there had been a failure to operate the said lines and an abandonment thereof. When the complaint was called for hearing, petitioner submitted evidence to the effect that after November, 1951, no bus of the respondent passed the Embarcadero Toll Gate, Alaminos, Pangasinan, from which it is claimed that the respondent had stopped the operation of his buses along the aforesaid lines. At that same hearing, counsel for the respondent admitted before the Commission that there had been a partial abandonment of the lines, but that this abandonment was occasioned by the difficulty of obtaining truck tires and spare parts for its trucks operating on the lines. The petition was filed on March 6, 1952, and the hearing took place on March 29, 1952. In view of the admission of partial abandonment by counsel for the respondent, no further evidence was taken, and the case was submitted for decision. The Commission did not order cancellation of petitioner's certificates of public convenience as prayed for, but upon request of respondent that the violation be compromised, dismissed the complaint (for cancellation) and merely imposed a fine of P200 for the partial abandonment of the lines. Against this decision, the petitioner has filed this appeal. It is claimed that the Commission committed grave abuse of discretion in imposing only a fine of P200, instead of cancelling respondent's certificates of public convenience.

The circumstances that were taken into account in accepting respondent's offer of compromise and the imposition of a fine are contained in the decision of the respondent Commission, as follows:

* * *. At the next hearing applicant, through counsel, manifested that to proceed with the hearing would entail the bringing of many witnesses and considerable expense, and he further manifested that it is true that during 1951, there were long interruptions of applicant's service on these lines due to the difficulty of obtaining good units to run on these long lines as well as the restrictions in buying new tires and spare parts; that, while there were interruptions, there was no complete abandonment of service and occasional trips were made; that these interruptions of service could not be avoided but that efforts were being exerted to operate the lines regularly. On these manifestations, applicant offered a compromise of a sum which the Commission may deem proper to fix.

We do not believe that applicant's explanations exempt him from liability for the admitted interruptions of his service. If it is true that these interruptions were unavoidable, the corresponding authority to suspend service should have been obtained from the Commission. It does not appear that any such authority was ever obtained. The suspension of service constituted violations of the authorities under which applicant was authorized to operate. On equitable considerations, however, and taking into account that the interruptions of service did not prejudice nor damage the movant herein, and considering the investments made by the applicant on these lines, the Commission believes that applicant would be sufficiently punished by imposing on him a fine for having interrupted his service without authority of the Commission,

It is argued on behalf of the petitioner that the respondent violated his certificates of public convenience in having abandoned the trips prescribed in his time schedule for four consecutive days without previous authority from the Commission, and that the Commission failed to exercise the authority conferred by section 16 (n) of the Public Service Law.

There is no question that the partial abandonment of the lines had been voluntary on the part of the respondent, and under the law cancellation of his certificates of public convenience may be ordered. However, it is a fact, of which we take judicial notice, that in the years 1950 and 1951 there was an acute shortage of tires, which made difficult the continued operation of many trucks not only in the transportation lines but also in other industrial pursuits. The absence of this very important item in the transportation business was entirely beyond the control of the respondent, and constitutes a good excuse for the temporary suspension of the trips under his certificates of public convenience. Furthermore, no other evidence was introduced to show that the public had in any way or manner been inconvenienced or prejudiced by the suspension of the operation of said lines, and certainly petitioner did not suffer thereby. Evidently, petitioner's purpose in instituting the proceedings for cancellation is to remove respondent as a competitor in the business in which they are both engaged.

The record does not disclose why respondent's certificates were granted. We presume they were necessary for public convenience. Under the facts proven and the circumstances appearing in the record, we are not prepared to state that the Commission committed an abuse of discretion in refusing to cancel the certificates of public convenience granted the respondent. (*Rural Transit Co. vs. Viuda de Sison*, 57 Phil. 857.) Certificates of public convenience involve investment of a big amount of capital, both in securing the certificate and in maintaining the operation of the lines covered thereby, and mere failure to operate temporarily should not be a ground for cancellation, especially as when, in the case at bar, the suspension of the service was directly caused by circumstances beyond the operator's control, namely, the dearth of truck tires and spare parts.

The appeal must be denied and the decision of the Public Service Commission affirmed, with costs against the petitioner.

Paras, C, J., Pablo, Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Concepcion and Reyes, J. B. L., JJ., concur.

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