

LA MALLORCA AND PAMPANGA BUS COMPANY, INC., PETITIONER VS. ARMANDO MERCADO, RESPONDENT.

G.R. No. L-19120. November 29, 1965

Ponente: ZALDIVAR. J.

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ZALDIVAR. J.:

This is a petition filed by the La MaMorca and Pampanga Bus Company, Inc., to review the decision rendered by the Public Service Commission on October 18, 1961, granting Armando Mercado, the applicant and respondent herein, a certificate of public convenience to operate for a period of twenty-five (25) years four (4) units of jitneys of any make, with fixed route and regular terminal for the transportation of passengers and freight on the line from the town of Orion to the town of Balanga in the province of Bataan, and vice versa, subject to the terms and conditions enumerated in said decision.

On October 27, 1960, respondent, Armando Mercado, filed in the Public Service Commission an application for authority to operate an auto-truck service on the Balanga-Orion line with the use of six (6) jitneys and the same was docketed as Case No. 60-2004.

Against this application, petitioners, La Mallorca and Pampanga Bus Co., Inc., filed an opposition on the ground that the service rendered by them on the line applied for was adequate and sufficient for the needs of the travelling public, and consequently the service applied for would not promote public convenience in a proper and suitable manner, but would only involve the operators in a cut-throat and ruinous competition which would be detrimental to public interest.

At the hearing of the case, applicant-respondent presented his evidence consisting of the testimonies of three witnesses. On the other hand, one witness, Deogracias Borlongan, a Travelling Inspector in the employ of oppositors-petitioners, testified for the oppositors.

After hearing, the Public Service Commission rendered a decision granting to the applicant a certificate of public convenience to operate only four units. The oppositors appealed to this Court.

In this appeal, the oppositors, who are petitioners herein, contend:

1. That the Public Service Commission gravely abused its discretion in stating "that passengers in this line are forced to take rides in jeepneys which are not authorized to operate in said territory or which are operating outside of its territory or those whose lines of operation are beyond either of the two terminals herein applied for", when there is absolutely no testimony establishing these facts nor the supposed facts could be inferred from the evidence for the applicant-respondent;
2. That the Public Service Commission gravely abused its discretion in taking cognizance of and making the basis of the decision the supposed memorandum dated August 14, 1961, submitted by Public Service Inspector Gonzalo Frias "that there are plenty of 'colorum' operators in that area" without calling to the witness stand the public service inspector who supposedly prepared and submitted the said memorandum; and

3. That the Public Service Commission gravely abused its discretion in authorizing applicant-respondent to operate PUJ Auto-truck service on the Balanga-Orion line, notwithstanding the frequency of service rendered by the herein oppositor-petitioner and 35 other buses over the line applied for.

We find no merits in these contentions. In the decision under review, the Public Service Commission made findings, as follows:

"The evidence on hand show that the citizenship and financial capacity of the applicant were not placed in issue. Consequently, the only issue to be decided is whether or not there is any public necessity for the approval of the application at bar.

"On this issue of public necessity, the gist of applicant's evidence is as follows that the distance from Orion to Balanga is eight (8) kilometers; that Balanga being the capital of Bataan has its provincial and municipal buildings and offices, schools, public market, and commercial and business establishments; that Orion is a fishing and agricultural town; that passengers, coming from Orion are composed of students who attend classes in Balanga, merchants who sell their products and their wares in Balanga, and employees who have their work in Balanga; that while it is true that the La Mallorca and the Fambnsco operate in the province of Bataan, it has only four units coming from Balanga and Cabcabin; that these four units from Balanga and other units of the same companies passing on the line applied for, do not usually pick or get passengers from Orion due to the fact that they are already full; that the units of the said companies when starting from Balanga are already full of passengers for Cabcabin; that passengers on this line are forced to take rides in jeepneys which are not authorized to operate in said territory or which are operating outside of its territory or those whose lines of operation are beyond either of the two terminals herein applied for; and that, due to the present condition a dire need for transportation service to ply on the line applied for exist.

"The gist of the oppositors' evidence on the other hand is as follows: that the Pambuseo has operations passing the line applied for; that these operations are on its lines Stanvac-Manila with the use of twenty-nine units and Limay-San Fernando with the use of four units, all of which pass Orion and Balanga; that the La Mallorca has also operations passing the line applied for; that these operations are on its Lamao-Manila line with fifteen units and on its Balanga-Cabcabin line with four units; that oppositors buses are all with a 47 passenger capacity or 52 passengers capacity; that the La Mallorca buses from Lamao have only two to three passengers and upon reaching Balanga they have only ten to twenty passengers; that this is true in all their trips starting from 3:03 in the morning then to 3:05, 4:23, 5:03 and 5:05 in the morning up to their afternoon trips; and that the present number of trips and kind of service offered to the traveling public in this territory by La Mallorca and Pambusco, are adequate and satisfactory."

After considering the evidence in the case, the Public Service Commission concluded that:-

"In view of the fact that the evidence of oppositors consists of the uncorroborated testimony of one of their employees, the Commission is constrained to give greater weight to the evidence introduced by applicant. Moreover, the Commission takes cognizance of its own records to the effect that there are plenty of 'colorum' operators in that area (Memo to the Commission dated August 14, 1961, submitted by Public Service Inspector Gonaalo Prias). This fact is but one of the few persuasive evidence attesting to the urgent need of more passenger vehicle in that area.

"For all the foregoing, and it appearing that applicant is a Filipino citizen and financially capable of operating the proposed service that the operation of the same will promote public convenience and interests, and that approval of this application will result to greater revenue for our government as it would discourage 'colorum' operators from operating in that area if there are enough authorized passenger vehicles plying on the said line, the opposition filed in this case, being without merit, is hereby overruled, and the application granted. Wherefore, pursuant to Section 15 of Commonwealth Act 146, as amended, let the corresponding certificate of public convenience be issued to applicant, for four (4) units only instead of the six applied for, ..."

The foregoing findings of the Public Service Commission are supported by substantial evidence in the record.

The petitioners stress the point that the Public Service Commission gravely abused its discretion in taking cognizance of and making as basis of its decision the memorandum submitted by its (Public Service Commission's) Inspector, Gonzalo Frias, to the effect that there were plenty of "colorum" operators in the area concerned. We find that this memorandum formed part of the records of the Public Service Commission, and the Commission took into account its own record and considered this memorandum as one of the persuasive evidence to support the conclusion that there was an urgent need of more passenger vehicles in the area. This memorandum of Field Inspector Gonzalo Frias was a routinary report that he submitted to the Public Service Commission periodically. While the Public Service Commission is a quasi-administrative and quasi-judicial body, it is particularly a fact-finding body whose decisions on questions regarding certificate of public convenience are influenced not only by the facts as disclosed by the evidence in the case before it but also by the report of its field agents and inspectors that are periodically submitted to it. This memorandum of inspector Frias, however, was not the sole basis of the decision of the Public Service Commission in the present case. The fact that Inspector Gonzalo Frias was not place on the witness stand to testify on this memorandum-report that he made to the Public Service Commission is of no moment because that memorandum—report was not specially made in connection with this case. As we had adverted to, that memorandum was one of the periodic reports of the inspectors or agents of the Public Service Commission and it forms part of the record of the Public Service Commission on TPU auto-truck service already authorized.

This Court has already held that in arriving at a conclusion that, "there is really need for the additional service to adequately serve the travelling public" the Public Service Commission may take into account its own record "on TPU auto-truck service already authorized". And, It has been held time and again that where the Commission has reached a conclusion of fact after weighing the conflicting evidence, that conclusion must be respected, and the Supreme Court will not interfere unless it clearly appears that there is no evidence to support the decision of the Commission (*Pangasinan Transportation Co., Inc. vs. De la Cruz*, 95 Phil. 278).

And so, it is now a very well-settled rule in this jurisdiction that the findings and conclusions of fact made by the Public Service Commission, after weighing the evidence adduced by the parties in a public service case, will not be disturbed by the Supreme Court unless those findings and conclusions appear not to be reasonably supported by evidence (*Raymundo Transportation Co., Inc. vs. Cervo*, 91 Phil. 313; *Yellow Taxicab Co., et al. vs. Danon*, 58 Phil. 75; *Laguna Tayabas Bus Company, et al. vs. Vegamora*, G.R. No. L-9445, April 29, 1957; *Pangasinan Transportation Co., Inc. vs. Ricardo Feliciano*, 116 Phil. 143).

Wherefore, the decision appealed from should be, as it is hereby, affirmed, with costs against the petitioners.

Bengzon, C. J., Bautista Angelo, Cnception, Reyes, J. B. L., Dizon, Regala, Makalintal, and Bengzon, J. P., JJ., concur.

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