

OLONGAPO JEEPNEY OPERATORS ASSOCIATION, PETITIONER, VS. PUBLIC SERVICE COMMISSION AND DIOSDADO BARTOLO, RESPONDENT.

G. R. No. L-20699. February 26, 1965

Ponente: BARRERA, J.

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BARRERA, J.:

In connection with the application of Diosdado Bartolo, a certificate of public convenience to operate a (transportation) public utility service on the route Sta. Rita (Olongapo) to Magsaysay Drive (Naval Base gate) in Olongapo, Zambales, the Public Service Commission issued an order dated June 28, 1962, setting said application for hearing on July 30, 1962. The order also contained the usual requirement of publication and notice (of said order) to all operators affected, as appearing in the list attached thereto, "at least ten (10) days before the date of hearing, and that applicant, during the hearing, shall submit among others, as proof of compliance therewith, the affidavit of the person who mailed said notices, to the effect that the same was made within the required period. The list of affected operators attached to the order contained 62 names, 60 of whom appear to be residents of Olongapo, Zambales.

The records show, however, that while the notice was duly published in 2 newspapers of general circulation on July 5, 1962, the individual notices sent by registered mail to the affected operators were posted in Manila only on July 25, 1962. Consequently, the addressees received the same on the first week of August, as evidenced by the registry return cards, or after the scheduled date of hearing as appearing in said notice.

In view thereof, the Olongapo Jeepney Operator Association (composed of the operators affected), in a motion which was received by the Public Service Commission on August 6, 1962, prayed for the re-opening of the case and/or setting aside of the decision, if the application of Bartolo was already granted, as said association desires to oppose the same, on the ground that public convenience and necessity would no longer be served thereby; that as the jurisdictional requirement of notice was not complied with, it was deprived of its day in court.

Strangely, although the oppositor's copy of this motion, which contains the correct title or citation of the case, clearly bore the stamp of receipt of the receiving- section of the Public Service Commission on August 6, 1962[1] the original or copy of said motion does not appear in the Service Commission and Bartolo Commission's record-folder of Case No. 62-3695. It must be for this reason that no action was taken thereon.

The records do not reveal what took place on July 30. It appears, however, that Atty. Jesus K. Calderon, who was designated to receive applicant's evidence, did so on August 20, 1962' and as none of the affected operators was present, an order of default was entered against them at the instance of the applicant. On November 16, 1962, a decision was rendered granting applicant Bartolo a certificate to operate 2 jeepneys in the route covered by his application. Presumably on account of the general order of default, the affected operators were not also notified of this decision. It was only in December, 1962, upon inquiry made in the Motor Vehicles Office, that they learned of said decision. Hence, the filing of the instant petition for review.

On the petitioner's charge that the jurisdictional requirement of notice to affected parties was not complied with, the record of this case speaks for itself. Although the order of June 28, 1962 specifically required that the notices should be sent to the persons named in the list at least 10 days before the hearing which was scheduled for July 30, 1962, the registry receipts, which were submitted to the commissioner as part of applicant's evidence, show that the mails were actually posted in Manila only on July 25, 1962. Considering that these were sent by registered mail and the addressees were in Zambales, it was almost a certainty that the latter would not, as they did not, receive the same before July 30. Furthermore, it may be pointed out that although the same order of the Commission required the submission of the affidavit of the person who posted the notices, attesting to the fact that mailing was made at least 10 days before the date of hearing, no such affidavit was presented. Notwithstanding the foregoing deficiencies, the application was, nevertheless, approved and the disputed decision was rendered.

In this instance, respondent applicant contends that the publication of the notice of hearing in 2 newspapers of general circulation in the province of Zambales is notification not only to the interested parties, but to the whole world in general. This is inaccurate. The order required, in addition to publication, individual notice to the operators affected by the application whose names appeared in the list attached to the order. The requirement, therefore, is not in the alternative, but conjunctive. It cannot be disputed that this requirement of the Public Service Commission itself in connection with an application for a certificate of public convenience, is within the power of the Commission to impose. The inadequate notification to the interested parties in this case, which resulted in the oppositors' failure to be present during the hearing, deprived them of their day in court. The decision rendered in disregard of said right, consequently, is null and void.

WHEREFORE, the decision in PSC Case No. 62-3695 is hereby set aside, and the case is remanded to the Commission for further proper proceedings. No costs.

SO ORDERED.

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

[1] There is no showing in the records whether the scheduled hearing of July 30, 1962 was postponed, and whether the affected parties duly notified of the re-setting thereof to August 20, 1962.

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