

RAMON L. CORPUS, PETITIONER, VS. THE PUBLIC SERVICE COMMISSION, RESPONDENT.

G.R. No. L-325. October 31, 1947

Ponente: PERFECTO, J.

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PERFECTO, J.:

On January 12, 1946, respondent commission granted petitioner a certificate of public convenience to operate an auto-truck service for passengers and freight on the lines Manila-Divisoria via Santa Mesa; San Juan-Divisoria via Santa Mesa; Montalban-Manila via Quezon City and España; and Navotas-Divisoria via Malabon and Caloocan, and vice-versa. The commission provided that the certificate shall be valid only "until December 31, 1947." Disagreeing with this limitation, petitioner came to us to seek modification.

There is no question as to the authority of the commission to fix a time limit. Section 16 of Commonwealth Act No. 146 provides that "no such certificate shall be issued for a period of more than 50 years." The maximum period of 50 years is the same as the one set by section 8 of Article XIV of the Constitution.

The issue here is whether the commission, in fixing the limit here in question, committed an abuse of discretion or exceeded the bounds of reasonable judgment to the extent of committing an injustice requiring a corrective measure from this Court. Although petitioner stated in his application that he "agrees to accept the certificate subject to a period of validity which the Commission may fix" and during his testimony he manifested his conformity to the limit up to December 31, 1947, in another identical case, such commitments do not bind petitioner to impugn a time limit which may appear to be arbitrary, unjust, or unfounded.

In the same paragraph where the time limit up to December 31, 1947, is set, the commission reserved upon itself the right to alter or modify the conditions enumerated in the decision or to impose additional conditions in order to adjust applicants' operation to changing conditions and the eventual resumption of operation under normal conditions, considering that the service applied for is authorized during a state of emergency.

The reasons for the reserve made by the commission seem to support also the time limit set in the decision. Undoubtedly, the certificate granted is provisional in character. Being so, it is only logical that it be granted for a short period.

According to petitioner's testimony, he would use the following vehicles in the service: a Dodge, model 1936, converted into a jitney with canvas covering; a Buick, model 1936, converted into a jitney with wooden and canvas covering; another Dodge, model 1938, also with canvas covering; a Ford truck, model 1935, to be converted into a jitney, the motor of which was bought by petitioner from a mechanic and the chassis and the wheels from another person. Petitioner bought the vehicles in July, 1945. How they were used and for what purpose, he lacks any knowledge.

Considering the age of the cars, the time limit granted by the commission cannot be unreasonable. The cars have been in use years before the war. Their long years of service and the fact that during the Japanese occupation there

were no adequate means for proper repairs are reasons enough to believe that the cars cannot be of useful service for more than one year, taking into consideration the heavy pounding they will receive in the continuous daily public service in rough roads. Considering the rough handling which public service cars receive from their drivers, the great majority of whom show complete unconcern about traffic conditions, and are constantly violating traffic rules, without any regard for public safety,—a thing upon which the commission is urged to take preventive measures, in view of the extent of the evil,—we might say that the time limit granted by the commission appears to be even too long for the kind of second-hand cars used by petitioner.

Experience will show that such cars cannot be in continuous operation for many days without costly repairs which are hard to face. No evidence or valid reason has been advanced by petitioner to show that the commission acted arbitrarily in limiting the time for his certificate up to December 31, 1947. The evidence in record justifies an even shorter time limit than that granted. The commission acted wisely in reserving to itself the right to modify the conditions of the certificate granted. It is expected that the commission will exercise such keen and proper supervision as to immediately stop the operation of the service as soon as the vehicles used in same would endanger public safety. This should be one of the main concerns in this case. Transportation must be easy, cheap and above all safe. If vehicles are not in efficient condition and in proper shape as to afford safe transportation their use should immediately be stopped.

For all the foregoing, the appealed decision of the Public Service Commission is affirmed.

Moran, C.J., Paras, Hilado, Bengzon, Padilla, and Tuason, JJ., concur.

Feria, and Briones, JJ., concur in the result.

DISIDENTE

PABLO, M.:

Disiento. En mi opinion, la sentencia de la Comision de Servicio Publico es injusta e inconsistente al conceder al recurrente el irrisorio plazo de dos años (hasta Diciembre 31, 1947) para operar su servicio de auto-truck para pasaje y carga en las lineas Manila-Divisoria, San Juan-Divisoria, Montalban-Manila y Navotas-Divisoria. El mejor argumento contra esta resolucion son sus conclusiones de hecho que, copiadas literalmente, dicen asi:

"At the hearing applicant adduced evidence to prove that there is a public need for the service applied for by him and that he is in a financial position to undertake and carry on said service. Oppositors made no attempt to refute applicant's evidence regarding the need for the service but argued that as prior operators they have acquired rights which the Commission is called upon to protect even if at present they are not, or are only partially, rendering the service called for in their certificates due to lack of equipment resulting from the commandeering of their trucks or other causes attributable to the war. Oppositors argued further that they claim for this protection of their rights in preparation for the time when they might be able to acquire sufficient equipment to resume a complete and total operation of their authorized services.

"As against this claim for protection of rights, however, we have the fact, proven by applicant's evidence and impliedly admitted by oppositors, that public convenience and necessity demand the approval of this application. We believe that where we have to choose between protecting rights which are alleged might be impaired and promoting public interest and convenience, our choice must be the latter. This is the more so where there is no immediate impairment of the rights sought to be protected, considering that oppositors are rendering only a small fraction of the service called for in their certificates and some of them are not rendering any service at all. It is not our intention, however, to disregard entirely oppositors' right as a prior operator and it is for the purpose of affording said rights certain measure of protection that this application is approved

subject to certain special conditions.

* * * * *

"For the foregoing reasons and finding from the evidence that public necessity and convenience will be promoted in a proper and suitable manner by the approval of this application, and that applicant is financially able to maintain and operate the service applied for, the opposition filed herein are hereby overruled, and it is ordered that, upon payment of the necessary fees, a certificate of public convenience be issued to the applicant, * * *."

¿Si estos antiguos operadores no estaban en condicion de prestar el servicio que necesitaba el publico, cuando todo era confusion, ruina y desolacion, por que se limito a dos años (en vez de un plazo razonable dentro del cual se pueda recuperar una legitima inversion) la validez del certificado de conveniencia publica que se concedio al solicitante? ¿Por que razon no ha de tener igual proteccion el recurrente que invirtio su capital, acaso hasta el ultimo centimo de sus ahorros, para contribuir con sus esfuerzos para afrontar la crisis de medios de transportacion? Si a los antiguos operadores se les concedio 25 años de plazo para operar, ¿por que a los nuevos operadores, entre los cuales esta el recurrente, que gustosos aportaron su pequeño capital para acelerar la solucion del grave problema de transportacion, no se les ha de dar igual derecho? ¿Por que ahogar a los pequeños y nuevos operadores para dar vida a los grandes intereses? ¿Es para fomentar el monopolio opresivo y odioso de las grandes empresas?

El punto cardinal que debe tener en cuenta la Comision es la solucion pronta de la necesidad del publico de un servicio de transportacion seguro, barato y eficiente. Hasta la fecha no hay exceso de vehiculos de pasaje y carga. Los pasajeros viajan en trucks como sardinas en banasta. El coche de uso privado esta solamente al alcance de los pocos mimados por la fortuna. La crisis de transportacion persiste. Los precios, debido en parte a esta crisis, estan por las nubes. La poblacion de Manila y pueblos limitrofes ha triplicado. La afluencia migratoria hacia Manila desde las provincias, especialmente de las del centro de Luzon continua. No hay peligro de que por unos cuantos auto-trucks mas, puestos en el servicio de transportacion no vayan a tener pasajeros los antiguos operadores cuando esten en condicion de poner en circulacion sus nuevos coches.

La tendencia actual de los gobiernos es evitar la acumulacion de la riqueza en pocas manos. La politica actual del Gobierno es adquirir los latifundios y grandes parcelas residenciales para revenderlos en pequeños lotes. Cuando cada familia tenga una huerta y un hogar que defender entonces cada hogar sera una fortaleza y cada ciudadano sera un soldado, un centinela contra el avance del Comunismo; pero si se fomenta la reconcentracion en pocas manos de la tierra, del comercio y de la industria y el resto no sea mas que un simple peon que se mueve al capricho del potentado, no se podra impedir que el curso de los acontecimientos mundiales se precipite; no se podra impedir que las masas, hoy amorfas, adquieran al fin suficiente consistencia e impongan por medio del sufragio: socialicemos las grandes empresas de transportacion, socialicemos los comercios en gran escala; socialicemos todo. Si se desea que el comunismo no haga estragos, se debe fomentar la creacion de pequeñas empresas o empresas individuales en el comercio, en la industria y en la agricultura y se formara una clase media, fuerte, vigorosa, independiente y sana que no se dejara influir ni por los halagos de la plutocracia, ni por las amenazas del comunismo. El germen del comunismo, como todo germen morbos, esta en continuo asecho esperando la hora propicia para comenzar su obra de destruccion, y en cuanto los diferentes elementos sociales de nuestra economia nacional esten desorganizados por el antagonismo y el odio de clase, el comunismo hara sus estragos irremisiblemente. Armonicemos las actividades de todos esos elementos para la pronta reconstruccion moral y material de la nacion, tratemos por igual a todos sin sacrificar los intereses de los modestos operadores para el beneficio de los grandes intereses creados. No debemos sembrar el descontento y el odio que engendran las injusticias si no queremos cosechar tempestades.

Debemos fomentar la democracia economica. Debemos dar aliciente a los pequeños operadores, concediéndoles oportunidad para prestar sus servicios al publico en el negocio de transportacion, tiempo razonable para poder recuperar su capital invertido como lo tienen los antiguos operadores, oportunidad para ganar su pan de cada dia, como tienen las grandes empresas oportunidad para repartir pingues ganancias.

Que los coches usados por el recurrente como los otros pequeños operadores son de segunda mano no es razon bastante para que se les prive—(en este caso, limitar es privar)—del sano deseo de ejercer un negocio legitimo; porque cuando sus coches sean inservibles se retiraran voluntariamente del servicio o los sustituirá con otros nuevos. No hay necesidad de limitar a dos años su certificado de conveniencia publica; si por su diligencia pueden continuar prestando servicio a satisfaccion del publico, con viejos coches o con otros nuevos, ¿por que impedirles a ejercer un negocio legitimo y honrado? ¿Quiere la Comision que despues del diciembre de este año, los nuevos operadores se dediquen al contrabando? Que haya libre concurrencia, bajo regulaciones justas de la Comision de Servicio Publico, en el negocio de transportacion; que los emprendedores de buena voluntad, nuevos y antiguos, humildes y poderosos operadores, aporten su contribucion en la medida de sus fuerzas, al pronto restablecimiento de la transportacion segura, eficiente y barata para que, como secuela necesaria, bajen los precios de los efectos de primera necesidad. Que los antiguos operadores no imiten al perro del hortelano, en perjuicio del servicio de transportacion.

Esos pequeños operadores que estan condenados a muerte y cuya ejecucion tendra lugar el 31 de Diciembre de este año, tienen derecho a sobrevivir como los grandes intereses, en justicia y equidad, Al recurrente se le debe conceder un plazo de quince años para operar su negocio de transportacion, si queremos administrar justicia por igual a todos.

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