

LAGUNA TAYABAS BUS COMPANY, PETITIONER, VS. FELIX T. REGODON, RESPONDENT.

G.R. No. L-9586. December 27, 1956

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

The Laguna Tayabas Bus Company is appealing the decision of the Public Service Commission in Case No. 79675 of that commission, granting the application of Felix T. Regodon and overruling its opposition to the same. For purposes of reference, we are reproducing said decision of the Commission, excluding that portion referring merely to the conditions and rates imposed on the applicant, over which there is no controversy.

"This is an application for the operation of a TPU service for the transportation of passengers and freight on the line Atimonan- Lucena in the Province of Quezon, with the use of one (1) auto-truck.

"The Laguna Tayabas Bus Company opposes this application for the reasons alleged in its written opposition attached to the records of this case; and at the hearing presented evidence to show that there is no need for the proposed service as it is presently operating on the said line, and that the service it is rendering is sufficient to meet the needs of the traveling public. To support this contention, oppositor presented inspection reports of its operation made by its own inspectors as well as the census taken by its census takers of other TPU vehicles operating in the region applied for. Aside from the fact that said inspection reports and census are self-serving evidence, the same do not reflect the true passenger loads of the auto-trucks of the oppositor and other TPU cars between Atimonan and Lucena as most of the data of passenger loads were taken at places other than Atimonan and Lucena, the terminals of the line applied for. Moreover, even checking made at Pagbilao, Malinao and Malicboy, all intermediate points, of the said line Atimonan-Lucena, shows fairly good passenger loads which contradicts oppositor's contention that there are very few passengers on the line.

"On the other hand, applicant presented evidence to show that there is a great movement of passengers on the line applied for, consisting principally of students who attend the different high schools and private colleges in Lucena, and merchants, employees and farmers who bring their agricultural products to Lucena; that oppositor does not operate a local service between Atimonan and Lucena, a fact admitted by it; that trucks passing through these points, in their trips to Manila as well as those operating to Gumaca or points after Gumaca are always filled to capacity and cannot accommodate the large number of passengers that need transportation and that applicant has already acquired one (1) auto-truck for operation in the line applied for by him.

"After a consideration of the evidence of record, as well as the records of the Commission regarding the number of auto-trucks authorized to operate on the line in question, and the number of trips that they make, the Commission is of the opinion that public interests and convenience will be promoted in a proper and suitable manner by the approval of this application.

"Wherefore, the opposition filed in this case is hereby overruled, and it appearing that applicant is a Filipino citizen and financially capable to operate and maintain the proposed service, it is ordered that under the provisions of section 16 of Commonwealth Act 146, as amended, the certificate of public convenience applied for be issued to the applicant, subject to the following conditions: * * *."

The only question involved is the volume of traffic between the two points Lucena and Atimonan, Quezon Province, whether or not said Traffic considered with the present transportation service being rendered, is such that additional service is justified. The Commission evidently attaches little if any importance to the inspection reports and census made by appellant's own inspectors and census takers, on the ground that they are self-serving. That may be true in a way; at the same time, the evidence presented on behalf of the applicant, consisting mainly of the testimony of witnesses including the applicant himself, cannot be considered as wholly impartial and reliable, based as they are on observations made casually and without a definite period of time so as to give an idea of the volume of traffic for the whole day. In this respect, the reports and census made by the oppositor-appellant should have at least equal weight.

The fact that a prospective passenger on a transportation line, on a certain day and hour fails to secure transportation, either because at the moment there was no bus passing, or if there were, it was already full, cannot be a valid test of whether additional service on the line is needed. A person desiring transportation cannot expect, and has no right to expect available transportation every minute of the day for the reason that transportation companies are not required and are in no position to furnish said transportation. That is the reason why said companies, including railroad and shipping companies, have time schedules. A traveller has to adjust himself to said schedules. It may be that occasionally, a bus on which a traveler desires to secure transportation is already filled, thereby requiring him to wait for the next bus; but these may be ordinary and inevitable incidents in the transportation system over which common carriers have no control. Time schedules and frequency of trips are based and adjusted by said companies and approved by the Commission on the basis of ordinary and usual traffic and not on occasional and unexpected congestion of traffic when, for instance, whole families go visiting relatives in another town, or attend a town fiesta, or parties to a case bring their witnesses to court for trial, etc.

In the present case, even disregarding the reports and census presented by the oppositor-appellant as to the volume of traffic on the line Lucena-Atimonan, still we find the testimony of and report made by Cornelio Egasani, an agent of the Public Service Commission itself, which evidence was apparently overlooked by said Commission. According to said report based on his observations, at a point between Lucena and Atimonan, and for three successive days, of about thirty trips a day, although the capacity of the buses of the oppositor which made up the bulk of said trips, is about forty-five passengers, although the oppositor claims that it is forty-seven passengers, the number of passengers which Egasani found during his three days observation never reaches the full capacity of said buses, the average being even below thirty. Sometimes, there were only ten, thirteen, twenty-one, or less than thirty in each bus; and the number of passengers on the pick-ups operated by M. Villareal was even less. The only trouble we find in this report of Egasani is that it is based on his observations and checking made between the hours of 8:00 in the morning and 5:00 in the afternoon. He admitted in his testimony that there was more traffic during the rush hours, which according to him were between 6:00 and 8:00 a.m. and between 5:00 and 6:00 p.m., but that he could not ascertain or determine such volume for the reason that he started working only at 8:00 o'clock in the morning and stopped working at 5:00 p.m., although at one time, he began at 7:45 in the morning and left his post at 4:45 in the afternoon. He should have been instructed to vary his time of work and observation so as to include the rush hours.

The Commission also says that the oppositor-appellant maintains no local service between Lucena and Atimonan. This finding not only finds no support in the record but is contrary to said record. Manuel Gonzales, acting Traffic Manager of the oppositor-appellant, in his testimony positively assured the Commission that his company maintains a local service between Lucena and Atimonan, and counsel for oppositor-appellant in his brief, particularly Appendix B reproduces the time schedule at this local service, starting from Atimonan at 5:25 a.m. and arriving at Lucena at 7:01 a.m., and leaving Lucena at 5:46 p.m. and arriving at Atimonan at 7:16 p.m.

Giving the applicant the benefit of doubt and assuming that during the rush hours on the line in question, the volume of traffic justifies additional service, we approve the Commission's decision granting Regondon's application for additional service, but with the modification that the Commission adjust his time schedule so as to cover as nearly as possible only the rush hours between 6:00 and 8:00 a.m. and 5:00 and 6:00 p.m., of course, with one single unit. The reason for this modification is that any invasion of the lean hours in transportation by allowing additional service thereto would only result in unfair and cut-throat competition, with all the attendant evils and disadvantages, such as, financial loss to all operators, changing without authority time schedules so as to get more passengers, or racing of buses on the highway in order to pick up passengers.

In view of the foregoing, and with the modification above stated, the decision appealed from is hereby affirmed. The case is ordered remanded to the Commission so that it may make the adjustment of the time schedule as above suggested. For this purpose, it might be advisable to call the parties to see if they could agree on this point; but in case of disagreement, the Commission may on its own initiative fix the said time schedule as above indicated. No costs.

Paras, C. J., Bengzon, Padilla, Labrador, Concepcion, Reyes, J. B. L., Endenda, and Felix, JJ., concur.

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