

RED LINE TRANSPORTATION CO., INC., PETITIONER, VS. TEO DOLFO ASCANO, RESPONDENT.

G.R. No. L-8292. May 23, 1956

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is a petition for review of a decision of the Public Service Commission authorizing respondent Teodolfo Ascano to operate three (3) auto-trucks for the transportation of passengers and freight on the line Tumauni-Baggao via Tuguegarao and vice-versa.

It appears that respondent Ascano had filed an application for authority to operate six (6) units on said line; that the Bachrach Motor Company, Inc., and the Red Line Transportation Co., Inc., objected to said application; and that, in due course, the Public Service Commission rendered a decision, pertinent parts of which reads as follows:

"From the evidence submitted by the applicant, it appears that there are more 34 barrios between Tumauni and Tuguegarao and 19 barrios between Tuguegarao and Baggao; that all these barrios are thickly populated; that Tumauni alone has from 5,000 inhabitants more or less, while Awitan, a barrio of San Pablo, Isabela, has around 300 family heads; that without taking into account the inhabitants of the other barrios between Tumauni and Baggao via Tuguegarao, there are already around 12,000 passengers in the region mentioned who may travel along the line applied for; that from Baggao to Tuguegarao the oppositor, the Red Line Transportation Company has only one trip a day, while the Rural Transit has no trips from Tuguegarao to Baggao; that on account of the heavy traffic on the line applied for, trucks operating between Tumauni to points beyond Baybayod Junction are almost always fully loaded with passengers and passengers have to wait for a long time before they could be accommodated. The Municipal Council of Tuguegarao, Cagayan, realizing the need for additional TPU truck services, either between Tuguegarao and Tumauni or from Tuguegarao to Baggao or points after Tuguegarao but before Baggao, passed Resolution No. 79 on September 4, 1953, favorably recommending approval of the application filed by the herein applicant, stating as one of the reasons the fact that authorized TPU truck operators operating on long distance trips do not stop at intermediate points only, especially so when these passengers carry baggages. Applicant has P10,000 deposit in the Philippine National Bank; earns about P1,000 a month as a dentist and has properties consisting of dental equipment, agricultural and residential lots and a house worth around P97,000. Applicant's income from the buy and sell business is from P500 to P600 a month. Applicant has already acquired three of the six units he is applying for and these are now ready for operation as soon as his application is approved.

"On the other hand, oppositors presented evidence to the effect that there are few passengers on the line applied for; that passengers between Tumauni and points before Baybayod Junction and Baggao are being adequately served not only by short distance operators passing Tumauni, Tuguegarao and Baybayod Junction to points in the direction of Aparri; that on ordinary days their buses carry from 12-15 passengers only; that in view of the few passengers on the line, they suffered losses and the granting of the present application will result, in ruinous competition. Oppositors also reproduced in evidence the report of the Checkers of the Commission stationed at Tuguegarao, Cagayan, was made a record of all Trucks passing Tuguegarao to either south or north of Tuguegarao, from May 21, 1953, both dates inclusive. Oppositor, Rural Transit, presented the

toll collector at Balasig Bridge who testified that trucks passing this toll bridge carry only from 1/2 to 2/3 of their carrying capacity, altho he admitted on cross examination that it was not his duty to observe the number of passengers in those trucks passing the toll bridge and the figures given by him are mere calculations.

"A scrutiny of the records of said Checkers stationed at Tuguegarao, Cagayan, from May 8, to 21, 1953, reveals that there are around thirteen (13) trucks bearing T plates operating between Tuguegarao and Baggao, between Tuguegarao-Nabalan, and between Tumauni and Tuguegarao which, are devote to the transportation of passengers between said points; and that these T trucks are not authorized for TPU operations and their existence and operation in the region indicate the need for additional TPU services therein. "After a careful consideration of the evidence submitted by both parties, as well as the records of the Commission on existing public services dn the line applied for, the Commission is convinced that the granting of the present application for three (3) units only, instead of six units originally applied for, is justified."

Only the Red Line Transportation Company, Inc. has appealed from this decision. In its brief, it alleges that:

- "The Public Service Commission erred in granting the respondent, a certificate of public convenience to operate a TPU service on the Tuguegarao-Tumauni line based principally on the existence and operation of T-trucks which are devoted to the transportation of passengers.
- "The Public Service Commission erred in holding that the records of the Commission on existing public services on the line applied for', justified the granting of the application.
- "The Public Service Commission erred in failing to give due protection to the capital investment of the petitioner."

In support; of the first assignment of error, it is urged that there is no evidence to the effect that the thirteen f (13) T-trucks—not authorized for TPU operations—found to have been transporting passengers between Tuguegarao and Baggao, between Tuguegarao and Nabalan, and between Tumauni and f uguegarao, had charged any fare for the services thus rendered to them and that, accordingly, we must assume that said passengers had paid nothing therefor, the presumption being that the law has been complied with, not violated. This view, however, runs counter , to the ordinary course of events for the transportation of passengers, specially when repeatedly made, entails expenditures which the owners of said T-trucks cannot be presumed to be willing to bear gratis et amore. In short, it was not unreasonable for the Public Service Commission to conclude that the passengers of said T-trucks were accommodated for a monetary consideration, in the absence of proof to the contrary, and there is none to this effect. Under its second assignment of error petitioner makes, in its brief, a list of the trips already authorized to be made from Tuguegarao, northward and from Baggao, southward, and maintains that the same are sufficient to) meet the demands of the public convenience in said localities. This pretense is untenable, for none of the trips included in said list covers the line Tumauni-Baggao, via Tuguegarao, and vice-versa, to which respondent's application refers. Besides, the Commission took specific note of the number of public utilities already in operation therein when it concluded that the granting of respondent's application for three (3) units would promote public convenience. Considering the number of barrios traversed by the line in question, as well as the population thereof, the number of passengers traveling in said region and the thirteen (13) T-trucks engaged therein in the transportation of passengers, although not authorized for TPU operation, we cannot say that the Public Service Commission has abused its discretion in making said finding, which, consequently, should not be disturbed.

As regards the third assignment of error, petitioner says that it has suffered losses in the sum of 11,215.35, on account of the operation of its service in the line in question, for a period Gi nine (9) months, and that the order appealed from would have the effect of imposing greater losses upon said petitioner, to the damage and prejudice of its business. The only evidence on said alleged losses consists, however, of a profit and loss statement of

petitioner herein, without any proof whatsoever of its accuracy. It is obviously inadequate to establish the existence of said alleged losses.

Besides, the same, if true, may be due to flaws in the management or to causes other than ruinous competition among the public utility operators. Indeed, the fact that only two (2) of them objected to respondent's application, that petitioner was the only one who appealed from the decision in favor of respondent herein and that there are many units operating in the line in question, although without authority therefor, apart from the other circumstances pointed out in said decision, strongly indicate that the passenger traffic in said line is sufficiently heavy to justify the action complained of.

Wherefore, the decision appealed from is hereby affirmed, with costs against the petitioner, It is so ordered.

Paras, C. J., Bengzon, Padiila, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Reyes, J. B. L., and Endencia, JJ., concur.

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